VOL. V

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1941

No. 131

THE UNITED STATES OF AMERICA, PETITIONER

vs.

LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN AND HELPERS OF AMERICA, ET AL.

No. 132

LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN AND HELPERS OF AMERICA, ET AL., PETITIONERS

vs.

THE UNITED STATES OF AMERICA

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITIONS FOR CERTIORARI FILED JUNE 5, 1941
CERTIORARI GRANTED OCTOBER 13, 1941

INDEX

	PAGE
Statement Under Rule 13	1
Docket Entries (C-102-394)	7
Docket Entries (C-102-395)	26
Indictment (C-102-394)	41
Indictment (C-102-395)	54
Demurrer by Defendants Local 807, Devery, Hickey, Clarke et al. (C-102-394)	72
Amended Demurrer by Defendants Ackalitis et al.	74
Demurrer by Defendants La Rosa and Gaughan	76
Demurrer by Defendants Local 807, Devery, Hickey, Clarke et al. (C-102-395)	76a
Opinion by Leibell, D. J., Overruling Demurrers	77
Order Overruling Demurrer (C-102-394)	98
Order Overruling Demurrer (C-102-395)	99a
Notice of Motion by Defendants Local 807 et al. for Bill of Particulars	99b
Affidavit of Edward C. Maguire in Support of Motion	113
Notice of Motion by Defendants Ackalitis et al. for Bill of Particulars	116
Affidavit of James D. C. Murray in Support of Motion	126
Notice of Motion by Defendant Murtagh for Bill of Particulars	129
Affidavit of Michael Murtagh in Support of Motion	133
Stipulation that Motions for Bills of Particulars Apply to Both Indictments	136
Bill of Exceptions	139
Motion to Consolidate	149
Opening Statement for the Government by Mr. Cahill	167
Opening Statements for Defendants:	
By Mr. Maguire	178
By Mr. Murray	186
By Mr. Boudin	188

PAGE

Offers of Proof by Government.....716, 1406
Motion for Mistrial..... 1505
Motions to Dismiss and Argument.....1862-1910
Offer of Proof by Defense.....2224, 2278
Motion for Direction of Verdict for Defense.... 2296
Motions to Dismiss and Argument.....2297-2303
Summation by Mr. Murray..... 2304
Summation by Mr. Boudin..... 2333
Summation by Mr. Maguire..... 2353
Summation by Mr. Cahill..... 2368
Defendants' Requests to Charge with Notations by the Court..... 2411
Charge of the Court..... 2428
Exceptions to Charge and Refusals to Charge.. 2454
Communications from Jury and Charge of the Court.....2465, 2469, 2472
Verdict.....2484-2490
Motions to Set Aside Verdict.....2495-2517
Sentences.....2519-2531
Judge's Authentication of Bill of Exceptions..... 2524
Stipulation Settling Bill of Exceptions..... 2594
Order Settling Bill of Exceptions..... 2595

Judgment against Local 807 (C-102-394)..... 2596
Judgment against Local 807 (C-102-395)..... 2597
Judgment against William Campbell..... 2598
Commitment against William Campbell..... 2599
Judgment against Austin Furey..... 2600
Commitment against Austin Furey..... 2601
Judgment against George Bagley (C-102-394)..... 2602
Judgment against George Bagley (C-102-395)..... 2603
Commitment against George Bagley..... 2604
Judgment against Joseph Bender (C-102-394)..... 2605
Judgment against Joseph Bender (C-102-395)..... 2606
Commitment against Joseph Bender..... 2607
Judgment against Michael Cahill (C-102-394)..... 2608
Judgment against Michael Cahill (C-102-395)..... 2609

PAGE

Commitment against Michael Cahill 2610
Judgment against Joseph Deegan (C-102-394) 2611
Judgment against Joseph Deegan (C-102-395) 2612
Commitment against Joseph Deegan 2613
Judgment against Robert Dillon 2614
Commitment against Robert Dillon 2615
Judgment against Frank Downs (C-102-394) 2616
Judgment against Frank Downs (C-102-395) 2617
Commitment against Frank Downs 2618
Amended Judgment against Frank Downs (C-102-394) 2619
Amended Commitment against Frank Downs 2620
Judgment against John Gaughan (C-102-394) 2621
Judgment against John Gaughan (C-102-395) 2622
Commitment against John Gaughan 2623
Judgment against John Horan (C-102-394) 2624
Judgment against John Horan (C-102-395) 2625
Commitment against John Horan 2626
Judgment against Andy Jakakas (C-102-394) 2627
Judgment against Andy Jakakas (C-102-395) 2628
Commitment against Andy Jakakas 2629
Judgment against Abraham Klenofsky (C-102-394) 2630
Judgment against Abraham Klenofsky (C-102-395) 2631
Commitment against Abraham Klenofsky 2632
Judgment against Leonard La Marne (C-102-394) 2633
Judgment against Leonard La Marne (C-102-395) 2634
Commitment against Leonard La Marne 2635
Judgment against Manuel Magan 2636
Judgment against James Murphy (C-102-394) 2637
Judgment against James Murphy (C-102-395) 2638
Commitment against James Murphy 2639
Judgment against George Needelman 2640
Commitment against George Needelman 2641
Judgment against Bernard L. Randazzo (C-102-394) 2642
Judgment against Bernard L. Randazzo (C-102-395) 2643
Commitment against Bernard L. Randazzo 2644
Judgment against Samuel Reichler (C-102-394) 2645

PAGE

Judgment against Samuel Reichler (C-102-395) 2646
Commitment against Samuel Reichler 2647
Judgment against Morris Reichler 2648
Judgment against Harry Zollinger (C-102-394) 2649
Judgment against Harry Zollinger (C-102-395) 2650
Commitment against Harry Zollinger 2651
Judgment against Thomas Sharkey (C-102-394) 2652
Judgment against Thomas Sharkey (C-102-395) 2653
Commitment against Thomas Sharkey 2654
Judgment against William Simpson (C-102-394) ... 2655
Judgment against William Simpson (C-102-395) ... 2656
Commitment against William Simpson 2657
Judgment against Tony Venditti (C-102-394) 2658
Judgment against Tony Venditti (C-102-395) 2659
Commitment against Tony Venditti 2660
Judgment against Peter Waskiewicz 2661
Judgment against Edward Weipheimer 2662
Commitment against Edward Weipheimer 2663
Judgment against John Weinheimer (C-102-394) ... 2664
Judgment against John Weinheimer (C-102-395) ... 2665
Commitment against John Weinheimer 2666

Notice of Appeal by Defendant Local 807 of International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America 2667
Notice of Appeal by Individual Defendants except Michael Cahill 2673
Notice of Appeal by Defendant Michael Cahill 2686
Assignment of Errors 2694
Order Extending Time to File Record 2692
Order Extending Time to File Record 2693
Order Extending Time to File Record 2792
Order Extending Time to File Record 2794
Order Extending Time to File Record 2795
Order Extending Time to File Record 2796
Stipulation as to Record 2798
Order as to Record 2799
Clerk's Certificate 2800

	PAGE
Proceedings in U. S. C. C. A. Second Circuit	2801
Opinion, L. Hand, C. J.	2801
Concurring opinion, Clark, J.	2807
Opinion, Augustus N. Hand, J., dissenting in part	2809
Government's petition for rehearing	2810
Order denying petition for rehearing	2813
Judgment	2813
Clerk's certificate	2814
Orders allowing certiorari	2815

BILL OF EXCEPTIONS

Testimony

Before Hon. Murray Hulbert, *U. S. D. J.*, and a Jury

For the Government

	PAGE
Albert A. De Roches:	
Direct by Mr. Marks	193
Anna E. Chudy:	
Direct by Mr. Marks	201
Edward Deptula:	
Direct by Mr. Marks	229
George Willard Steller:	
Direct by Mr. Marks	233
Cross by Mr. Murray	241
Redirect by Mr. Marks	257
Recross by Mr. Murray	258
George Haversat:	
Direct by Mr. Marks	259
Cross by Mr. Murray	267
Henry Monar:	
Direct by Mr. Marks	281
Cross by Mr. Murray	292
Cross by Mr. Maguire	297
Redirect by Mr. Marks	300
Theodore Steller:	
Direct by Mr. Marks	307
Cross by Mr. Maguire	314
Benjamin Mattson:	
Direct by Mr. Marks	321
Cross by Mr. Murray	344
Redirect by Mr. Marks	363
Robert E. A. Boyle:	
Direct by Mr. Marks	366
Cross by Mr. Murray	372

PAGE

Edward A. Strozyk:
Direct by Mr. Marks..... 375
Cross by Mr. Murray..... 398
Cross by Mr. Maguire..... 412
Redirect by Mr. Marks..... 415
Paul Ellsworth Koontz:
Direct by Mr. Marks..... 419
Cross by Mr. Murray..... 449
Redirect by Mr. Marks..... 453
Roy Thomas Lescalleet:
Direct by Mr. Marks..... 454
Direct (resumed) by Mr. Ennis..... 475
Cross by Mr. Murray..... 479
Cross by Mr. Maguire..... 498
Redirect by Mr. Ennis..... 501
Richard E. Nolder:
Direct by Mr. Ennis..... 502
Cross by Mr. Murray..... 509
Redirect by Mr. Ennis..... 516
H. Earl Pitzer:
Direct by Mr. Ennis..... 517
Cross by Mr. Murray..... 548
Redirect by Mr. Ennis..... 569
Harry M. Wood:
Direct by Mr. Ennis..... 570
Cross by Mr. Murray..... 583
Francis David Dillman:
Direct by Mr. Marks..... 586
Cross by Mr. Maguire..... 598
Cross by Mr. Boudin..... 607
Redirect by Mr. Marks..... 611
Wilmer Fidler:
Direct by Mr. Marks..... 615
Cross by Mr. Murray..... 638

PAGE

Russell B. Goddard:
Direct by Mr. Ennis..... 649
Direct (continued) by Mr. Ennis..... 729
Cross by Mr. Murray..... 747
Redirect by Mr. Ennis..... 797
Recross by Mr. Murray..... 801
George Beatty:
Direct by Mr. Marks..... 802
Cross by Mr. Murray..... 846
Cross by Mr. Boudin..... 880
Cross by Mr. Murray..... 899
Redirect by Mr. Marks..... 899
Recross by Mr. Murray..... 902
Redirect by Mr. Marks..... 906
Robert B. Spackman:
Direct by Mr. Marks..... 906
Cross by Mr. Boudin..... 934
Frank Bernot:
Direct by Mr. Marks..... 938
Cross by Mr. Murray..... 964
Redirect by Mr. Marks..... 994
Charles R. Pritts:
Direct by Mr. Enbis..... 998
Direct by Mr. Emnis (continued)..... 1025
Hobart Portersfield:
Direct by Mr. Ennis..... 1035
Cassius C. Perry:
Direct by Mr. Ennis..... 1051
Cross by Mr. Murray..... 1071
Floyd E. Fropk:
Direct by Mr. Marks..... 1077
Cross by Mr. Murray..... 1085
Roy John Austin:
Direct by Mr. Marks..... 1089
Cross by Mr. Murray..... 1107

PAGE

Milton L. Lahn:
Direct by Mr. Ennis..... 1116
Cross by Mr. Murray..... 1134
Redirect by Mr. Ennis..... 1140
Recross by Mr. Murray..... 1149
Redirect by Mr. Ennis..... 1150
John W. Hughes:
Direct by Mr. Marks..... 1151
Cross by Mr. Murray..... 1158
William F. Betts:
Direct by Mr. Marks..... 1160
Cross by Mr. Murray..... 1181
Redirect by Mr. Marks..... 1186
Carlton C. Hooks:
Direct by Mr. Ennis..... 1198
Cross by Mr. Murray..... 1224
Cross by Mr. Murray (continued)..... 1545
Cross by Mr. Murray (continued)..... 1565
Howard A. Miner:
Direct by Mr. Marks..... 1238
Cross by Mr. Murray..... 1249
Lillian P. Miner:
Direct by Mr. Marks..... 1253
Cross by Mr. Murray..... 1257
Michael Agoes:
Direct by Mr. Marks..... 1262
Cross by Mr. Murray..... 1268
Joseph Buglio:
Direct by Mr. Marks..... 1275
Cross by Mr. Murray..... 1295
Cono Buglio:
Direct by Mr. Marks..... 1301
Cross by Mr. Murray..... 1314
Raymond E. Stiles:
Direct by Mr. Ennis..... 1317

PAGE

Albert A. Wilson:
Direct by Mr. Ennis..... 1328
Cross by Mr. Murray..... 1338
Julius E. Allred:
Direct by Mr. Ennis..... 1344
Cross by Mr. Murray..... 1352
Redirect by Mr. Ennis..... 1358
Paul M. Grapani:
Direct by Mr. Marks..... 1358
Cross by Mr. Maguire..... 1367
Alfred L. Hummel:
Direct by Mr. Marks..... 1370
Cross by Mr. Maguire..... 1380
Earl Fowser:
Direct by Mr. Ennis..... 1383
Recalled..... 1420
Clinton B. Newell:
Direct by Mr. Ennis..... 1390
Cross by Mr. Murray..... 1420
Edward Warren:
Direct by Mr. Marks..... 1401
Direct by Mr. Marks (continued)..... 1411
Cross by Mr. Murray..... 1419
John Palmer:
Direct by Mr. Marks..... 1421
Cross by Mr. Murray..... 1426
Max Snowhite:
Direct by Mr. Ennis..... 1429
Cross by Mr. Murray..... 1435
Redirect by Mr. Ennis..... 1439
Recross by Mr. Murray..... 1439
Theodore J. Williams:
Direct by Mr. Marks..... 1440
Cross by Mr. Murray..... 1447
Harry T. Trembley:
Direct by Mr. Marks..... 1447
Cross by Mr. Murray..... 1457

PAGE

Ronald G. Carman:
Direct by Mr. Ennis..... 1458
Cross by Mr. Murray..... 1461
Sheldon Carll:
Direct by Mr. Marks..... 1462
Cross by Mr. Murray..... 1470
John A. Zohlman:
Direct by Mr. Marks..... 1471
Cross by Mr. Murray..... 1477
Emily B. Libe:
Direct by Mr. Ennis..... 1479
Cross by Mr. Murray..... 1502
Cross by Mr. Murray (resumed)..... 1540
Vincent Robbins:
Direct by Mr. Marks..... 1551
William H. Harris 3d:
Direct by Mr. Marks..... 1566
Cross by Mr. Murray..... 1587
Redirect by Mr. Ennis..... 1605
Samuel T. Simpkins:
Direct by Mr. Ennis..... 1605
Cross by Mr. Murray..... 1613
Redirect by Mr. Ennis..... 1615
John Lester Finlaw:
Direct by Mr. Ennis..... 1617
Cross by Mr. Murray..... 1624
Raymond A. Byrnes:
Direct by Mr. Ennis..... 1631
Cross by Mr. Murray..... 1649
Cross by Mr. Murray (continued)..... 1780
Redirect by Mr. Ennis..... 1795
Frank Lo Biondo:
Direct by Mr. Ennis..... 1659
Cross by Mr. Murray..... 1665
George Henry Harbert:
Direct by Mr. Ennis..... 1666
Cross by Mr. Murray..... 1680

	PAGE
Alfonso Brago:	
Direct by Mr. Ennis	1686
Cross by Mr. Murray	1692
Carl Calkins:	
Direct by Mr. Ennis	1693
Cross by Mr. Murray	1701
Redirect by Mr. Ennis	1702
John E. Kaufman:	
Direct by Mr. Ennis	1704
Cross by Mr. Murray	1708
Earl Hudson:	
Direct by Mr. Ennis	1709
Cross by Mr. Murray	1714
Donald Samuel Hunter:	
Direct by Mr. Ennis	1715
Cross by Mr. Murray	1728
Redirect by Mr. Ennis	1732
Recross by Mr. Murray	1735
Walter Stanton:	
Direct by Mr. Ennis	1737
Cross by Mr. Murray	1745
Louis Layman:	
Direct by Mr. Ennis	1746
Cross by Mr. Murray	1750
Harry L. Owens:	
Direct by Mr. Ennis	1752
Cross by Mr. Murray	1758
Salvatore Fontana:	
Direct by Mr. Ennis	1760
Allen Zane:	
Direct by Mr. Ennis	1768
Cross by Mr. Murray	1776
Ross Cavallo:	
Direct by Mr. Ennis	1800
Cross by Mr. Murray	1816

PAGE

Walter L. Larkin:
Direct by Mr. Marks..... 1821
Direct by Mr. Marks (resumed)..... 1838
Recalled—Direct by Mr. Marks..... 2285
J. Stanley Seeman:
Direct by Mr. Marks..... 2286
Francis L. Whitmarsh:
Direct by Mr. Marks..... 2293
Arthur P. Williams:
Direct by Mr. Marks..... 2294
Thomas F. McCarthy:
Direct by Mr. Marks..... 2295

FOR THE DEFENDANTS

Joseph Deegan:
Direct by Mr. Murray..... 1918
Cross by Mr. Cahill..... 1927
Andy Jakakas:
Direct by Mr. Murray..... 1940
Cross by Mr. Cahill..... 1941
Redirect by Mr. Murray..... 1968
James A. Murphy:
Direct by Mr. Murray..... 1971
Cross by Mr. Cahill..... 1991
John Gaughan:
Direct by Mr. Murray..... 2003
Cross by Mr. Cahill..... 2006
Peter Paul Waskiewicz:
Direct by Mr. Murray..... 2013
Cross by Mr. Cahill..... 2021
Redirect by Mr. Murray..... 2032
Manuel Magan:
Direct by Mr. Murray..... 2033
Cross by Mr. Cahill..... 2048
Redirect by Mr. Murray..... 2062

PAGE

William Simpson:
Direct by Mr. Murray..... 2063
Cross by Mr. Cahill..... 2067
William Joseph Campbell:
Direct by Mr. Murray..... 2075
Cross by Mr. Cahill..... 2096
Redirect by Mr. Murray..... 2123
Samuel Reichler:
Direct by Mr. Murray..... 2125
Cross by Mr. Cahill..... 2133
Redirect by Mr. Murray..... 2144
William H. Harris 3d:
Direct by Mr. Maguire..... 2145
Cross by Mr. Marks..... 2146
Walter L. Larkin (recalled):
Direct by Mr. Murray..... 2151
Cross by Mr. Cahill..... 2156
John Flaherty:
Direct by Mr. Murray..... 2158
Cross by Mr. Cahill..... 2163
Morris Reichler:
Direct by Mr. Murray..... 2165
Cross by Mr. Cahill..... 2169
Frank Downs:
Direct by Mr. Murray..... 2171
Cross by Mr. Cahill..... 2173
Anthony Venditti:
Direct by Mr. Murray..... 2184
Cross by Mr. Cahill..... 2190
Redirect by Mr. Murray..... 2198
Recross by Mr. Cahill..... 2198
John Joseph Weinheimer:
Direct by Mr. Murray..... 2199
Cross by Mr Cahill..... 2204

PAGE

Joseph George Needelmann:
Direct by Mr. Murray 2214
Cross by Mr. Cahill 2222
Cross by Mr. Cahill (continued) 2255
Jacob D. Schmeh]:
Direct by Mr. Maguire 2273
Howard S. Klein:
Direct by Mr. Maguire 2281

GOVERNMENT'S EXHIBITS

	Admitted Folio	Printed Page
4—Agreement, dated May 14, 1937, between Eastern & Southern Transportation Co. and Truck Drivers and Chauffeurs Local Union 807	1149	2535
5-A—Check for $9.42, dated June 14, 1937, Eastern & Southern Transportation Co., Inc. to Cash	1187	2540
5-B—Check for $10.00, dated May 14, 1937, Eastern & Southern Transportation Co., Inc. to Cash	1187	2541
6-A—Check for $9.42, dated June 2, 1937, Eastern & Southern Transportation Co., Inc. to Thomas Sharkey	1189	2542
8—Letter, dated Oct. 26, 1937, signed by George Needelman	6666	2543
9—Agreement, dated Nov. 19, 1937, between H. Earl Pitzer and Local Union 807	1612	2544
12—Receipt for $9.42, signed by George Needelman	1909	2544
15—Agreement, dated Jan. 27, 1938, between B & B Transportation Co., Inc. and Local Union 807	2137	2545
16-A—Check for $40.00, dated Apr. 30, 1938, B & B Transportation Co. to Michael Cahill	2547	2546

	Admitted Folio	Printed Page
16-B—Check for $40.00, dated May 7, 1938, B & B Transportation Co., Inc. to Michael Cahill	2517	2547
18—Telegram, dated May 6, 1938, B & B Transportation Co., Inc. to Local Union 807	2702	2548
19—Slip of Paper given by Spackman to Murray with telephone numbers	2762	2548
24—Receipt for $9.42, signed by J. W. Murray	2879	2549
25—Receipt for $9.42, signed by J. W. Murray	2879	2549
26—Receipt for $9.42, signed by G. Maggio	2883	2549
27—Receipt for $9.42, signed by G. Maggio	2883	2549
28—Receipt for $9.42, signed by Joe Kelly	2890	2549
29—Receipt for $9.42, signed by Joe Kelly	2890	2550
30—Receipt for $9.42, signed by Joe Kelly	2890	2550
32—Agreement, dated Apr. 19, 1937, between Lahn Motor Transportation Co. and Local Union 807	3374	2550
33—Check, dated May 8, 1937, Milton L. Lahn to Tom Sharkey	3393	2551
34—Check, dated Sept. 14, 1937, Milton L. Lahn to Edward Weinheimer	3421	2552
35—Western Union Receipt, Apr. 27, 1937, from M. Lahn for Wm. Pelker for $18.84	3424	2554
37—Paper addressed to Ralph Reed given to William Betts	3541	2554
38—Agreement, dated Sept. 1, 1936, Reliable Motor Lines, Inc. with Local Union 807	3737	2554
41—Agreement, dated Mar. 16, 1937, Buglio Trucking Co. with Local Union 807	3858	2555
46—Agreement, dated June 9, 1937, R. E. Stiles Motor Freight with Local Union 807	3977	2556

	Admitted Folio	Printed Page
48—Agreement, dated Apr. 14, 1937, Palmer Trucking Co. with Local Union 807.	4274	2557
49—Check, dated Nov. 30, 1937, of Snowhite & Gerson for Union Man	4297	2558
51—Agreement, dated June 8, 1937, between John Zohlman and Local Union No. 807	4429	2559
52—Agreement, dated May 12, 1937, between E. B. Libe and Local Union 807	4480	2560
53—Agreement, dated May 4, 1937, between Salem Express and Local Union 807	4718	2561
55—Agreement, dated May 19, 1937, between R. A. Byrnes, Inc. and Local Union 807	4919	2562
56—Check, dated July 7, 1937, R. A. Byrnes, Inc. to Robert Dillon	4933	2563
57—Agreement, dated May 22, 1937, between Lo Biondo Bros. Motor Express, Inc. and Local Union 807	4993	2564
60—Check, dated Oct. 2, 1937, Donald S. Hunter to Manuel Magan	5168	2564
61—Receipt for $9.42 signed by Peter Waskiewicz	6065	2565
61-A—Contract, dated May 24, 1935, between South Jersey Chauffeurs, Teamsters and Helpers Local Union 590 and R. A. Byrnes, Inc.	5388	2565
68—Constitution and By-Laws of International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America	5534	2568
69—Constitution and By-Laws of Truck Drivers Local 807, International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America	5568	2569

	Admitted Folio	Printed Page
70—Agreement, dated Nov. 27, 1936, between Cooper-Jarrett, Inc. and Local Union 807	5877	2570
71—Receipt for $9.33 signed by Manuel Magan	6155	2570
78—Receipt for $9.42 signed by T. Venditti	6580	2571
81—Letter, dated Dec. 5, 1938, G. Needelman to Earl Pitzer	6782	2571
83-B—Letter, undated, G. Needelman to Earl Pitzer	6791	2572
85—Letter, undated, to Pitzer	6801	2572
Defendants' Exhibits		
A for Iden.—Apparently dishonored Check of Eastern & Southern Transportation Co., Inc.	1228	2572
B for Iden.—Telegram, dated June 20, 1938, C. E. Perry to Frank Dillman	1814	2573
C—Telegram, dated Oct. 18, 1937, Goddard for Holland Transportation Co. to Weinheimer	2245	2573
D—Agreement, dated Apr. 1, 1937, Brookline Trucking Co. with Local Union 807	2272	2574
E—Letter, dated May 11, 1938, Eastern States Transportation Co. to J. W. Murray	2810	2575
F—Telegram, dated May 13, 1938, B & B Transportation Co. to Local Union 807	2687	2576
G—Telegram, dated May 6, 1938, B & B Transportation Co., Inc. to Michael Cahill	2706	2576

	Admitted Folio	Printed Page
H for Iden.—Telegram, dated May 13, 1938, B & B Transportation Co., Inc. to Michael Cahill	2708	2577
I—Seven Pick-up Orders for Merchandise to Trucks of Eastern States Transportation Co.	2905	2577
J—Agreement, dated May 9, 1938, Perry's Express, Inc. with Local Union 807	3323	2585
K—Official Dues Card of International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers, Truck Drivers Local Union 807	3340	2586
L—Telegram, dated Apr. 30, 1937, Lahn to Thomas Sharkey	3406	2587
M—Telegram, dated May 5, 1937, Lahn to Thomas Sharkey	3410	2587
N—Telegram, dated May 4, 1937, Lahn to Thomas Sharkey	3410	2587
O—Telegram, dated May 3, 1937, Lahn to Thomas Sharkey	3410	2588
P—Telegram, dated May 2, 1937, Lahn to Thomas Sharkey	3410	2588
Q—Check, dated Mar. 5, 1937, Reliable Motor Lines, Inc. to J. Deegan	3782	2589
R—Photograph of Zollinger	3926	2590
S—Contract, dated July 3, 1937, between R. A. Byrnes and South Jersey Chauffeurs, Teamsters and Helpers Union, Local 590 of Vineland, N. J., and Vicinity	5344	2597

Government's Exhibit 4.

7603

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN AND HELPERS OF AMERICA

TRUCK DRIVERS AND CHAUFFEURS LOCAL UNION No. 807
Affiliated with the A. F. of L. and C. T. and L. C.
and Building Trades Council of N. Y.

Phone Walker 5-4852 — Room 202, 74 Varick Street

New York, May 14, 1937

AGREEMENT entered into between EASTERN & SOUTHERN TRANSPORTATION Co. Party of the first part and TRUCK DRIVERS AND CHAUFFEURS LOCAL 807, party of the second part, to govern all hours, wages and conditions herein set 7604
forth, from the 14 day of May 1937 until the day of September 1st, 1938.

SECTION 1:	*Salary per week*	*Overtime per hour*
Four Horse Truck Drivers	$48.00	$1.50
Three Horse Truck Drivers	46.00	1.44
Two Horse Truck Drivers	44.00	1.37
One Horse Truck Drivers	42.00	1.31
Two Horse Small Delivery Wagon Drivers	43.00	1.34
One Horse Small Delivery Wagon Drivers	41.00	1.28
Third Axle Truck Chauffeurs	56.50	1.77
Tractors Chauffeurs	56.50	1.77
Seven and a half ton Automobile Chauffeurs	50.50	1.58
Five ton Automobile Chauffeurs	48.00	1.50
Four ton Aufomobile Chauffeurs	47.00	1.47
Three ton Automobile Chauffeurs	46.00	1.44
Two ton Automobile Chauffeurs	45.00	1.41
One ton Automobile Chauffeurs	44.00	1.37

7605

Helpers salary to be $39.00 per week; overtime $1.22 per hour.

Any Motor vehicle of less than one ton capacity chauffeur's salary to be $44.00 per week.

Windlass trucks to receive $1.00 above the wage scale stated herein.

Night chauffeurs and teamsters to receive $1.00 per week above the wage scale stated herein.

Salaries, on Automobile Trucks, other than Tractors, to be computed on State License Capacity, where same is more than Manufacturers Capacity.

Any straight job (meaning any two axle truck of five ton capacity or over) re-inforced with Third Axle driver to receive salary of $56.50 per week, where driver helps to
7607 load or unload. If driver does not help load or unload, his salary shall be $50.50 per week.

Tractors and Six Wheel Reach Truck salary to be $56.50 per week where driver helps to load or unload his truck. If he does not load or unload salary to be $50.50.

$2.00 per week additional to be paid on every ton carried on a Four Wheel Trailer to Chauffeur and Helper.

SECTION 2. Eight hours to constitute a day's work from Monday to Friday, inclusive. Seven hours to constitute a day's work on Saturday. Time to be taken when arriving at stable or garage at A. M. and leaving same P. M. Overtime to be paid at the rate of time and one-half per hour pro ratio as per eight hour day. Time clocks to be
7608 used in such places as are practical.

SECTION 3. Any driver, Chauffeur or helper ordered for work on Sundays or the following Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, any Holiday called for by the State, Decoration Day, Independence Day, Labor Day, Columbus Day, Election Day, Armistice Day, Thanksgiving Day, and Christmas Day to receive two

days' pay. Overtime to be paid at the rate of double overtime. Any driver, chauffeur, or helper working three days in any calendar week will be paid for any legal holiday occurring during said week.

SECTION 4. Employers hiring extra equipment—the same to be hired only from Employers that have an agreement with Locals Nos. 282, 807, and 816 of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America.

SECTION 5. Seniority shall prevail. Members of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers with paid up cards to be employed, and if not available then those who are to become members at the next meeting. 7610

SECTION 6. The Local Union will appoint one of its members to act as Job Steward, whose duty it shall be to see that the conditions of this contract are not broken by either employer or employees, and in case of a slack season he shall be the last chauffeur to be laid off, and under no consideration shall he be discriminated against.

SECTION 7. Employers to hire only Union Loaders when available, and not less than three men must help Driver to load Truck or Automobile.

7611

SECTION 8. All drivers and chauffeurs to make sidewalk deliveries only, or they will not be responsible for any losses in making delivery in building.

SECTION 9. Should any difference arise between employer and employee the same shall be submitted to arbitration by both parties; failing to agree they shall mu-

7612 *Government's Exhibit 4.*

tually appoint an umpire, whose decision shall be final and binding. If a Teamster or Chauffeur is removed from service for any doubtful cause, he shall have a fair and impartial investigation within three days, at which he may be present and have the right to call in a member of his committee who will be present at the entire investigation, and if found guilty he shall suffer the penalty, and if not, he shall be paid for time off.

SECTION 10. Men to report at stable or garage not before 7 A. M. If ordered out before that hour to be paid at the rate of time and one-half per hour pro ratio. If ordered out after 8 A. M. their starting time shall be as of 8 A. M. Any driver, chauffeur or helper leaving his truck or automobile in a different place than he started from for night tie up or storage providing it is within the limits of New York City, Brooklyn, Jersey City, and Hoboken, shall be paid carfare. If he ties up at any other point, he shall be paid traveling time and transportation expenses.

7613

SECTION 11. No driver or chauffeur to be asked to help load any truck or Automobile but the one they drive, unless paid extra for same.

SECTION 12. Men sent outside of the Metropolitan district to be paid hotel and traveling expenses.

7614 SECTION 12a. Employers to protect employees with Workmen's Compensation Insurance as required by the Laws of New York State.

SECTION 13. This Agreement to be and remain in full force and effect from the date hereof to the First Day of

Government's Exhibit 4. 7615

September 1938. During that time there shall be no revisions or modifications of this agreement.

For the Firm of:
EASTERN & SOUTHERN TRANS. CO.
E. A. STROZYK

FOR LOCAL NO. 807
WILLIAM DEVERY

Number of Men Employed: As required
Office Address: 3rd St.
Swedesboro, N. J.
Garage Address? Same 7616
24 St. & 11 Ave.

(On back thereof the following appeared in ink, crossed out with pencil)

Robert Dillon Shop Steward
Bernard Randazzo
Frank Downes
William Farrell

(And the following appeared in pencil)

Thomas Sharkey √ 8646 OK Devery
David Payne √ 1059

7617

7618 **Government's Exhibit 5-A.**

EASTERN & SOUTHERN TRANSPORTATION CO., INC.

Mantua, N. J. 5-14-1937 No. 7887

Pay to the order of
Cash $9.42/100
Nine Dollars and 42/100 ..... 42/100 Dollars

FLORENCE PINN
K. CHARLESWORTH

TO THE NATIONAL BANK OF MANTUA
Mantua, N. J.

7619 (Endorsed)

Robert Dillon

Pay to the order of
Lawyers Trust Company
Eleventh Avenue Diner, Inc.

(Plus Customary Bank Stamps showing payment)

7620

Government's Exhibit 5-B. 7621

EASTERN & SOUTHERN TRANSPORTATION CO., INC.

Mantua, N. J. 5-14-1937 No. 7888

Pay to the order of
Cash $10.00/100
Ten Dollars 00/100 ..... 00/100 Dollars

FLORENCE PINN
K. CHARLESWORTH

To THE NATIONAL BANK OF MANTUA
Mantua, N. J.

(Endorsed) 7622

E. A. Strozyk
Robert Dillon

Pay to the order of
Lawyers Trust Company
Eleventh Avenue Diner, Inc.

(Plus Customary Bank Stamps showing payment)

7623

7624

Government's Exhibit 6-A.

EASTERN & SOUTHERN TRANSPORTATION CO., INC.

Mantua, N. J. 6-2-1937 No. 8016

Pay to the order of
Thomas Sharkey $9.42/100
Nine Dollars and 42/100.....42/100 Dollars

FLORENCE PINN
K. CHARLESWORTH

TO THE NATIONAL BANK OF MANTUA
Mantua, N. J.

7625

(Endorsed)

Tom Sharkey

Pay to the order of
Lawyers Trust Company
Eleventh Avenue Diner, Inc.

(Plus Customary Bank Stamps showing payment)

7626

Government's Exhibit 8. 7627

Oct. 26, 1937

Dear Sir:

This here letter is to introduce myself. My name is Jos. G. Needelman Local Union man. I had a conversation with you over the telephone. Well naturally nothing much could be said over the phone. By you signing a Union Contract, I have to give you an 8 hr. day service. If 2 trucks come in, I have to work them provided I can do it in 8 hrs. Or if there are many miscellaneous stops & 2 trucks come in, another of my men have to work the second truck. If you have no contract, as of now, & you have 2 or 3 trucks caught, there is a separate pay of $9.42 7628
for each truck. I hope you will be down next Wednesday morning to meet me at Houck, your Broker, per telephone conversation. If you wish to write me before Wed., you can write me.

George Needelman
c/o Linoleum Store
547 Livonia Ave.
Bklyn
NYC.

Hoping we can get together I remain

Yours truly

GEORGE NEEDELMAN 7629

7630

Government's Exhibit 9.

Agreement between International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Truck Drivers and Chauffeurs Local Union No. 807, and H. Earl Pitzer, on the same printed form as Government's Exhibit 4, dated November 19, 1937, and signed as follows:

For the Firm of:
H. Earl Pitzer
Biglerville
Pa.

For Local No. 807
Wm. Campbell

7631

Number of Men Employed? As Required
Office Address? Biglerville, Pa.
Garage Address? Same

(On back thereof, written in ink)

(1419) Jos. Geo. Needelman (1)

Government's Exhibit 12.

Oct. 29

Rec. $9.42

7632

From Wolmer Fidler
Truck No. 20
George Needelman

Government's Exhibit 15.

7633

Agreement between International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Truck Drivers and Chauffeurs Local Union No. 807, and B & B Trucking Co., on the same printed form as Government's Exhibit 4, dated January 27, 1938, and signed as follows:

For the Firm of:
B & B Transportation Co. Inc.
George Beatty
Pres.

For Local No. 807
Brennan

7634

Number of Men Employed? As required
Office Address?.....
B & B Trucking Co.
Garage Address? Uniontown, Pa.

7635

7636 **Government's Exhibit 16-A.**

B. & B. Transportation Co., Inc.
Uniontown, Pa.

Uniontown, Pa. April 30 1938 No. 94

Pay to the order of
Michael Cahill $40.00
Forty ..... Dollars

B. & B. Transportation Co., Inc.
Thelma Beatty Secretary
M. Bonman Shipley Treasurer

7637 To Second National Bank of Uniontown
Uniontown, Pa.

This check is in full settlement of account as shown hereon. Acceptance by endorsement constitutes receipt in full.

Amount of check..... 40.00

(The upper left portion of the face of the check bears traces of something having been erased, or of a sticker having been removed.)

(Endorsed)

Michael Cahill

7638 R B Spackman

Paid
5-11-38

Government's Exhibit 16-B. 7639

B. & B. TRANSPORTATION CO., INC.
Uniontown, Pa.

Uniontown, Pa. May 7 1938 No. 95

Pay to the order of
Michael Cahill $40.00
Forty ..... Dollars

B. & B. TRANSPORTATION CO., INC.
THELMA BEATTY Secretary
M. BONMAN SHIPLEY Treasurer

To SECOND NATIONAL BANK OF UNIONTOWN
Uniontown, Pa. 7640

This check is in full settlement of account as shown hereon. Acceptance by endorsement constitutes receipt in full.

In full to date

Amount of check $40.00

(The upper left portion of the face of the check bears traces of something having been erased, or of a sticker having been removed.)

(Endorsed)

Michael Cahill 7641

R B Spackman

Paid
5-14-38

7642 **Government's Exhibit 18.**

POSTAL TELEGRAPH

Check 66 NL Time filed 738 PM

May 6 1938

International Brotherhood of Teamsters Chauffeurs
Stablemen & Helpers—Local Union No. 807
New York NY

We employed a member of your Local some time ago by the name of Michael Cahill at the rate or guaranteed salary of $40.00 a week for protection in your city. Same took one of our trucks, wrecked it and failed to make
7643 proper report for same. We have notified him today that his services are no longer required. Can you recommend anyone for his position

B & B TRANSPORTATION Co.

21 Ghi K 750 PM

Government's Exhibit 19.

A slip of paper, on one side of which is written:

"8 A. M. - 5 P. M.
Canal 6-9444
Laight & West St.
7644
After 5—
Call Gramercy 7-3722"

The following appears on the other side:

"Murray — De Mayo — 3.50 — 400"

Government's Exhibit 24. 7645

Received from Ripko & Bernot $9.42 for Two Trailer loads

J. W. MURRAY

March 16, 1938

Government's Exhibit 25.

Received from Ripko & Bernot $9.42 as for two Trailer loads

J. W. MURRAY

March 23, 1938

7646

Government's Exhibit 26.

Call Canal 6-9444

Paid 9.42—3/7/38

Unloaded W. Ripko & F. Bernot Dia. T. Trailer at Richmond Rad. L. I. C.

G. MAGGIO

Government's Exhibit 27.

Paid 9.42 to unload & load

3/9/38 G. MAGGIO

7647

Government's Exhibit 28.

April 5, 1938

Received 9.42 for 1 trailer load to Richmond Radiator Co. L. I. City

JOE KELLY

7648

Government's Exhibit 29.

Received $9.42/100 from Bernot & Ripko for 2 truck loads trailer for Richimond Radiator Co. L. I. C.

JOE KELLY

Government's Exhibit 30.

3/11/38

Received from Bernot $9.42 for 1 load to Richmond Radiator L. I. C. and 1 load of sugar Hoboken, N. J.

JOE KELLY

7649

Government's Exhibit 32.

Agreement between International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Truck Drivers and Chauffeurs Local Union No. 807, and Lahn Motor Trans., on the same printed form as Government's Exhibit 4, dated April 19, 1937, and signed as follows:

For the Firm of:
LAHN MOTOR TRANSP.
MILTON LAHN

7650

FOR LOCAL NO. 807
THOMAS HICKEY

Number of Men Employed? As Required
Office Address? Bridgeton N. J.
Garage Address? Same

(Stamped on back)

May 13 1937

Government's Exhibit 33. 7651

MILTON L. LAHN
MOTOR TRANSPORTATION

Bridgeton, N. J. May 8 1937 No. 2100

Pay to the order of
Tom Sharkey.....$80.00/100
Eighty and no/100.....Dollars

MILTON L. LAHN
Personal Account

To the
CUMBERLAND NATIONAL BANK
OF BRIDGETON
Bridgeton, N. J.

7652

(Endorsed)
Tom Sharkey
For Deposit
Peter Reilly

(Plus Customary Bank Stamps showing payment)

7653

7654

Government's Exhibit 34.

LAHN TRANSPORTATION

Bridgeton, N. J. Sept. 14 1937 No. 2415

Pay to the order of
Edward Weinheimer $9.42/100
The sum of $9 and 42 cts ..... Dollars

MILTON L. LAHN

To the
CUMBERLAND NATIONAL BANK
OF BRIDGETON
Bridgeton, N. J.

7655

Check is in payment of following items

For unloading 9/14/37 .... 9.42

(Endorsed)

Edward F. Weinheimer
1469 Jesup Ave.

Zelda Pomerantz

(Plus Customary Bank Stamps showing payment)

7656

Government's Exhibit 35. 7657

Amount $19.54/100 No. 77

RECEIVED OF PETTY CASH

April 27 1937

For Wm. Pelker
Charge to W. U. charges 18.84
.70
19.54

Received by.....

Approved by..... 7658

THE WESTERN UNION TELEGRAPH COMPANY

RECEIPT

Bridgeton, N. J. 4-27-1937

Received from M. Lahn.....($18.84)
Eighteen 84/100 Dollars, in payment of:

Telegraphic Money Order

To Wm. Pelker At NYC

7659

THE WESTERN UNION TELEGRAPH COMPANY
By E. E. Alquist

Money Order Charges Paid: $.70

7660 **Government's Exhibit 37.**

Ralph Reed

Your man William Betts has been stopped a few times by Union Men of New York. He has spoken to you about this. If you care to sign up with Union to avoid further trouble, please come down & if impossible to come, give driver a written affidavit with signature for O.K. from Union. If not your man will be stopped & sent back with his load. if he hasn't got the day's pay for Union man.

Government's Exhibit 38.

7661

Agreement between International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Truck Drivers and Chauffeurs Local Union No. 807, and Reliable Motor Lines, Inc., on the same printed form as Government's Exhibit 4, dated December 14, 1936, effective from the 1st day of September, 1936, and signed as follows:

For the Firm of:
RELIABLE MOTOR LINES, INC.
H. A. MINER, Pres.

FOR LOCAL NO. 807:
WM. J. CAMPBELL

7662

Number of Men Employed? One
Office Address? 175 10th Ave: N. Y. C.
Garage Address?.....

Government's Exhibit 41.

7663

Agreement between International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Truck Drivers and Chauffeurs Local Union No. 807, and Buglio Trucking Co., on the same printed form as Government's Exhibit 4, dated March 16, 1937, and signed as follows:

For the Firm of:
BUGLIO TRUCKING CO.
JOSEPH BUGLIO

FOR LOCAL NO. 807
CLARKE

7664

Number of Men Employed? As Required
Office Address: Vineland, N. J.
Garage Address? Vineland, N. J.
Phone Vineland 825-J-3

7665

7666 **Government's Exhibit 46.**

Agreement between International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Truck Drivers and Chauffeurs Local Union No. 807, and R. E. Stiles Motor Freight, on the same printed form as Government's Exhibit 4, dated June 9, 1937, and signed as follows:

For the Firm of:
R. E. STILES MOTOR FREIGHT
RAYMOND E. STILES

FOR LOCAL NO. 807
JOHN FLAHERTY

7667

Number of Men Employed? As Required
Office Address? 357 E. Broadway
Salem N. J.
Garage Address? Same
[J & Y Gas Station—crossed out]
at Canal & West Sts.
N. Y. C.

(On back thereof, in ink) (In pencil)

Ledger #1059
David Pyne #1 — #791 Washington St.
Ledger #7101 N. Y. C.
Harry Kenyon #2

7668

Government's Exhibit 48. 7669

Agreement between International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Truck Drivers and Chauffeurs Local Union No. 807, and Palmer Trucking Co., on the same printed form as Government's Exhibit 4, dated April 14, 1937, and signed as follows:

For the Firm of:
PALMER TRUCKING CO.
JOHN J. PALMER

FOR LOCAL NO. 807
WILLIAM CAMPBELL

7670

Number of Men Employed? As required
Office Address? Millville N. J.
Garage Address? V

7671

7672

Government's Exhibit 49.

SNOWHITE & GERSON
HAULING

Bridgeton, N. J. Nov. 30 1937 No. 4872

Pay to the order of
Max Snowhite. 89.42/100
9 Dols 42 Cts. . . . . Dollars

SNOWHITE & GERSON
MAX SNOWHITE B. S. GERSON

To the
CUMBERLAND NATIONAL BANK
7673 OF BRIDGETON
Bridgeton, N. J.

Check is in payment of following items

N. Y. Union man for unloading

(Endorsed)

Max Snowhite

Paid
11-30-37

7674

Government's Exhibit 51. 7675

Agreement between International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Truck Drivers and Chauffeurs Local Union No. 807, and John Zohlman, on the same printed form as Government's Exhibit 4, dated June 8, 1937, and sighed as follows:

For the Firm of:
JOHN ZOHLMAN
P. O. Box 312
Bridgeton N. J.

FOR LOCAL NO. 807
JOHN HUGHES

7676

Number of Men Employed? 2
Office Address? Bridgeton N. J.
Garage Address? Bridgeton N. J.

(On back thereof, in ink)

James A. Murphy — 1
Edward Darcy — 2

7677

7678 **Government's Exhibit 52.**

Agreement between International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Truck Drivers and Chauffeurs Local Union No. 807, and Emily B. Libe, on the same printed form as Government's Exhibit 4, dated May 12, 1937, and signed as follows:

For the Firm of:
E. B. LIBE
Owner

FOR LOCAL NO. 807
JOHN FLAHERTY

7679 Number of Men Employed? As required
Office Address? 20 Belvidere Ave.
Philipsburg N. J.
Garage Address? Same

(On back thereof, in ink)

Edward Franz L 20
William Stratton " 396

7680

Government's Exhibit 53.

7681

Agreement between International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Truck Drivers and Chauffeurs Local Union No. 807, and Salem Express, on the same printed form as Government's Exhibit 4, dated May 4, 1937, and signed as follows:

For the Firm of:
SALEM EXPRESS
Salem New Jersey
JAMES K. KEY

FOR LOCAL NO. 807
THOMAS HICKEY

7682

Number of Men Employed? As Required
Office Address? Salem N. J.
Garage Address? Same

(On back thereof, in ink)

Robert Dillon
Carl Meyers
Bernerd Randazzo

7683

7684 **Government's E hibit 55.**

Agreement between International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Truck Drivers and Chauffeurs Local Union No. 807, and R. A. Byrnes, Inc., on the same printed form as Government's Exhibit 4, dated May 19, 1937, and signed as follows:

For the Firm of:
R. A. BYRNES INC.
RAYMOND A. BYRNES
FOR LOCAL NO. 807
W. L. LARKIN
ROBERT DILLON

7685

Number of Men Employed? As required
Office Address? Mullica Hill N. J.
Garage Address?.....
(On back thereof, in ink)

Robt. Dillon
Bernard Randazzo
Frank Downes
W. Farrell

7686

Government's Exhibit 56. 7687

R. A. BYRNES, Inc.
Motor Freight
Mullica Hill, N. J. 7-7-1937 No. 16818

Pay to the order of
Robert Dillion $100.00/100
One hundred dollars .....xx/100 Dollars

R. A. Byrnes, Inc.
By R. A. Byrnes

To
The Farmers National Bank
Mullica Hill, N. J.

(Endorsed)

7688

Robert Dillon

S. Beekman

Pay to the order of
Bank of Athens Trust Company
For Deposit No. 2100

(Plus Customary Bank Stamps showing payment)

7689

7690 **Government's Exhibit 57.**

Agreement between International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Truck Drivers and Chauffeurs Local Union No. 807, and LoBiondo Bros. Motor Express, Inc., on the same printed form as Government's Exhibit 4, dated May 22, 1937, and signed as follows:

For the Firm of:
LoBiondo Bros. Motor Express Inc.
Frank LoBiondo Treas.

For Local No. 807
William Campbell

7691

Number of Men Employed?.....
Office Address? 126 Hudson St. N. Y. C.
Garage Address: R. D. 6, Bridgeton N. J.

Government's Exhibit 60.

Pay $9.42
S. S. .09
9.33

SWEDESBORO TRUST COMPANY
of Swedesboro, N. J.

7692

Swedesboro, N. J. October 2 1937 No. 962

Pay to the order of
Manuel Magan $9.33/100
Nine and 33/100.....Dollars

Donald S. Hunter

Payment for unloading 2 trucks at
R. C. Williams on Sept. 29, 1937

Government's Exhibit 61.

7693

(In ink)
Recieved $9.42 in check from Harry L. Owens for unloading truck

PETER WASKIEWICZ
Local 807

(In pencil)
280 W. 86th St.
N. Y. C.

Government's Exhibit 64-A.

Copy

PRODUCE CONTRACT

7694

SOUTH JERSEY CHAUFFEURS, TEAMSTERS AND HELPERS
LOCAL UNION 590
Office: 530 Landis Ave., Vineland
Phone 1420 Affiliated with A. F. of L.

FOR TRUCKING

AGREEMENT entered into between R. A. BYRNES INC., Swedesboro N. J., party of the first part and Drivers and Chauffeurs Local Union 590, party of the second part to govern all hours, wages and conditions herein set forth from the 24th day of May, 1935 until the 11 day of June, 1935.

7695

SECTION 1.	Two ton Truck and under..	$.65	per hour
	Two & Half ton.....	.65	" "
	Three & Half Ton.....	.80	" "
	Five Ton.....	.80	" "
	Three Ton Ten Wheel Truck	.80	" "
	Tractor & Trailer.....	.80	" "
	All Local Work.....	.50	" "

7696 *Government's Exhibit 64-A.*

SECTION 2. Members of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers with paid up cards to be employed and if not available then those who are to become members at the next meeting.

SECTION 3. The Local Union will appoint one of its members to act as Stable Steward, whose duty it shall be to see that the conditions of this contract are not broken by either employer or employees, and in case of a slack season he shall be the last man to be laid off, and under no consideration shall he be discriminated against.

7697 SECTION 4. Employee to be given one weeks notice before being discharged and to give employer same notice before resigning.

SECTION 5. All Drivers and Chauffeurs to make sidewalk deliveries only as they will not be responsible for any losses in making delivery in buildings and no driver is to load or unload any vehicle other than the one they drive.

SECTION 6. Should any difference arise between employer and employee the same shall be submitted to arbitration by both parties, failing to agree they shall mutually appoint an umpire, whose decision shall be final and binding. If a teamster or chauffeur is removed from
7698 service for any doubtful cause, he shall have a fair and impartial investigation within three days, at which he may be present and have the right to call in a member of his committee who will be present at the entire investigation, and if found guilty he shall suffer the penalty, and if not he shall be paid for time off.

SECTION 7. Employers hiring extra equipment—the same to be hired only from Truckman that have an agree-

ment with Local No. 590, of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America.

SECTION 8. Employers to protect employees with Workmen's Compensation Insurance as required by the Laws of New Jersey

SECTION 9. This Agreement to be and remain in full force and effect from the date hereof to the..... During that time there shall be no revisions or modifications of the agreement.

FOR LOCAL 590 FOR FIRM OF: 7700

....

....

7701

7702

Government's Exhibit 68.

Constitution and By-Laws of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America.

7703

7704

Government's Exhibit 69.

7705

Constitution and By-Laws of Truck Drivers Local No. 807, International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America.

7706

7707

7708 **Government's Exhibit 70.**

Agreement between International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Truck Drivers and Chauffeurs Local Union No. 807, and Cooper-Jarrett, Inc., on the same printed form as Government's Exhibit 4, dated November 27, 1936, and signed as follows:

For the Firm of:
COOPER JARRETT, INC.
FRANK M. COOPER

FOR LOCAL NO. 807
W. L. LARKIN

7709 Number of Men Employed? 3 City Men
Office Address? 138 Jane St. N. Y. C.
Garage Address? Road Job

(On back thereof, in ink)

Steady City Man 80—John Savage
" " " 8517—Andy Jackakis
Edward Cullen =816 Man
Walter Gorman

Government's Exhibit 71.

7710 Recieved from Pierce Trucking Co. for one days pay $9.42
Social Security..... .9
Net..... 9.33

MANUEL MAGAN
S. S. No. 056 07-7139

Government's Exhibit 78. 7711

Recieved from Rosser from Md. 9.42 for Union Driver.

T. VENDITTI

Government's Exhibit 81.

Dec. 5, 1938

Mr. Earl Pitzer:

My men who have been working the trucks have been waiting too long for their pay. Please eliminate this procedure in the future. Have a check every day trucks 7712
are in, payable to cash. Last Wednesday 1 of your trucks gypsied a load to the Bronx. I have that information from a reliable source. I am getting around to finding out who it was, and when I find out, that road-driver is finished in New York. If you gave them orders your operation will be tied up. So make sure & find out who it was & let him suffer the penalty. Also Frank Downes has 2 hrs. overtime ($3.54) which you have not sent to him. Please have it sent down to him to avoid any unnecessary trouble.

Yours sincerely

G. NEEDELMAN 7713

7714 **Government's Exhibit 83-B.**

Earl Pitzer

Please send Holiday pay as Delegate will tie me up next time. Hereafter send pay every Friday. If truck does not come Friday please mail it to 457 Williams Ave. Bklyn, N. Y.

GEORGE NEEDELMAN

Do not forget to send Social Sec. card back

Government's Exhibit 85.

7715 Pitzer

Advise men to call me up when they have Jersey stops. They all have the telephone number. Fidler will explain everything. The next time they are send out to gypsy a load & get caught, there is going to be a tieup & all trucks will stay out. There is a double day's pay for this load. The fellow that caught them is Stan Goczkowski, Jersey City.

May 9
10
11
12
17—1884

56.50

7716

Defendants' Exhibit A for Identification.

Check, apparently of the Eastern & Southern Transportation Company, Inc., that had been dishonored.

Defendants' Exhibit B for Identification. 7717

POSTAL TELEGRAPH

RXNA49 9=NF Buffalo NY 327P June 20 1938

51 Seventh Ave.

Frank Dillman, Care D E Jehli
11 Jane St. NYU

Pickup Rockwoods order instead beer 28 cases cocoanut cancelled

C E PERRY.

349P

7718

Defendants' Exhibit C.

Telegram employing Weinheimer, dated October 18, 1937, sent by Goddard, Traffic Manager for Holland Transportation Company, to Weinheimer. (Goddard signed name of F. K. Lovell to it.)

7719

7720

Defendants' Exhibit D.

Agreement between International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Truck Drivers and Chauffeurs Local Union No. 807, and Brookline Trucking Co., on the same printed form as Government's Exhibit 4, dated April 1, 1937, effective from the 1st day of September, 1937, and signed as follows:

For the Firm of:
BROOKLINE TRUCKING CO.
by F. K. LOVELL *Treas.*

FOR LOCAL NO. 807
BRENNAN

7721

Number of Men Employed? As required
Office Address? 157 10 Ave. N. Y. C.
Garage Address? .....

(On back thereof, in ink)

Frank De Canto
Henery Friedmann

7722

Defendants' Exhibit E. 7723

EASTERN STATES TRANSPORTATION CO.
87 Pennsylvania Ave., Uniontown, Pa.

May 11, 1938

Mr. J. W. Murray
508 East 12th St.
New York City

Dear Mr. Murray:

With reference to your letter of May 10 enclosing two of the B & B checks, please note that we were able to cash only one of them, $40.00. They did not have enough 7724
money in the bank to cover the other one. We will watch their account closely and the first opportunity that presents itself to get the cash, we will, and forward our check to you.

We are enclosing herewith our check for $40.00 to cover their check #94, dated April 30, which we cashed today.

Respectfully yours,

EASTERN STATES TRANSPORTATION CO.
R. B. Spackman

s/j
encl.

7725

7726 **Defendants' Exhibit F.**

POSTAL TELEGRAPH

GA538 10 NL—Uniontown Penn 13

1938 May 13 PM 8 31

International Brotherhood of Teamsters, Chauffeurs
Stablemen and Helpers—Local #807
Attn Thomas Hickey
71 Varick St NYC

We have reinstated Michael Cahill Disregard first telegraph Differences adjusted

7727 B AND B TRANSPORTATION CO.
By Shipley.

Defendants' Exhibit G.

POSTAL TELEGRAPH

NA6 39 NL—Uniontown Penn May 6 1938

Michael Cahill
508 East 12 St
(If not home put msg under door) (Deliver)

7728 This is to notify you that your services are no longer required for the fact and reason for wrecking one of our trucks and failing to submit a full report regarding same. Any wages due you will be mailed

B AND B TRANSPORTATION CO.
By Shipley.

Defendants' Exhibit H for Identification. 7729

POSTAL TELEGRAPH

GA541 38 NL Collect=Uniontown Penn 13

1938 May 13 PM 8 38

Michael Cahill
437 Washington St NYC

We wired Local 807 the following nightletter We have reinstated Michael Cahill Disregard first telegram Differences adjusted

Comply strictly instructions drivers to operate their own vehicles while in New York in order to protect you and your men

B AND B TRANSPORTATION CO. 7730
By Shipley.

Defendants' Exhibit I.

Seven Pick-up Orders.

EASTERN STATES TRANSPORTATION CO.
87 Pennsylvania Ave., Uniontown, Pa.

Date: March 9, 1938 Order No. 406
To Frank Bernot—No. 2
Pick up at Richmond Radiator Company–Uniontown, Pa. 7731
Account of Richmond Radiator Company
Deliver to Richmond Radiator Company–27th St.–Long Island City

All merchandise transported is covered by separate Consignor's Bill of Lading or Shipping Order, unless specifically stated otherwise herein.

7732 *Defendants' Exhibit I.*

THE FOLLOWING MERCHANDISE:

2 crates Tubs — Shipper's #10656
91 crates Smallware

Return March 9

Check	Pitt.	Chas. Koch	
$50.00	200	26	52.26

20100 lbs. Order No. 398

Gross Weight: 18,904# Rate: .50 Amount: 94.52
Terms: Prepaid Date Delivered: 3-11-38

Firm Name: RICHMOND RAD. CO.
Per R. C. DAWKINS

7733

From Pittsburgh, Pa., and Western Pennsylvania to New York - Brooklyn - Newark - Jersey City - Wilmington - Baltimore - Etc. - and Return

We are not responsible for damages to cargo resulting from riots, strikes or sabotage.
All merchandise quoted F.O.B. truck at destination.
Carrier submits that he has complied with all Federal and State laws covering his operation.
Claims not considered unless this bill is marked "Damaged when received" and followed by statement of damage.

(On back hereof appeared a receipt which was marked in evidence as Government's Exhibit 30.)

7734

Defendants' Exhibit I. 7735

EASTERN STATES TRANSPORTATION CO.
87 Pennsylvania Ave., Uniontown, Pa.

Date: March 29, 1938 Order No. 494
To Frank Bernot—No. 2
Pick up at Richmond Radiator Company–Uniontown, Pa.
Account of Richmond Radiator Company
Deliver to Richmond Radiator Company–27th St.–Long Island City

All merchandise transported is covered by separate Consignor's Bill of Lading or Shipping Order, unless specifically stated otherwise herein.

7736

THE FOLLOWING MERCHANDISE:

16 crates Bath Tubs Shipper's No. 11436
78 crates Smallware

Return
Chas. Koch Pitt.

Check
$125.00

Order No. 495
200 bag sugar

Wt.	R	Amount
20100	26	$52.26

Gross Weight: 16,664# Rate: .50 Amount: 83.32
Terms: Prepaid Date Delivered: 3-30-38

Firm Name: RICHMOND RAD. CO.
Per R. C. DAWKINS 7737

* * * * * * *

(On back hereof appeared a receipt which was marked in evidence as Government's Exhibit 29.)

7738 *Defendants' Exhibit I.*

EASTERN STATES TRANSPORTATION CO.
87 Pennsylvania Ave., Uniontown, Pa.

Date: April 4, 1938 Order No. 520
To Frank Bernot—No. 2
Pick up at Richmond Radiator Company–Uniontown, Pa.
Account of Richmond Radiator Company
Deliver to Richmond Radiator Company–27th St.–Long Island City

All merchandise transported is covered by separate Consignor's Bill of Lading or Shipping Order, unless specifically stated otherwise herein.

7739 THE FOLLOWING MERCHANDISE:

10 crates Tubs Shipper's #11498
68 crates Sinks

521

Check	Chas. Koch Pitt.		
$125.00	200—Sugar		
	200100	26	$52.26

Gross Weight: 20,820# Rate: .50 Amount: 104.10
Terms: Prepaid Date Delivered: 4-5-38

Firm Name: RICHMOND RAD. CO.
Per R. C. DAWKINS

* * * * * * *

7740 (On back hereof appeared a receipt which was marked in evidence as Government's Exhibit 28.)

Defendants' Exhibit 1. 7741

EASTERN STATES TRANSPORTATION CO.
87 Pennsylvania Ave., Uniontown, Pa.

Date: April 7, 1938 Order No. 545-546
To Frank Bernot—No. 2
Pick up at Richmond Radiator Company–Uniontown, Pa.
Account of Richmond Radiator Company
Deliver to Richmond Radiator Company–27th St.–Long Island City

All merchandise transported is covered by separate Consignor's Bill of Lading or Shipping Order, unless specifically stated otherwise herein.

THE FOLLOWING MERCHANDISE: 7742

Order 545:
FROM ENAMELWARE PLANT: Shipper's No. 11546
15 crates Tubs
31 crates Sinks
Richmond
Wm. H.
11,783= @ .50 cwt. — $58.92 Prepaid
Return
Chas. Koch

Order 546:
FROM RADIATOR PLANT: Shipper's No. 96891
62 Cast Iron Radiators " " 542
40 Cast Iron Rad. Sections

Check 200 Sugar 7743
$25.00 200100 -26 $52.26

13,932= @ .50 cwt. — $69.66 Prepaid

Gross Weight..... Rate..... Amount.....
Terms..... Date Delivered: 4-9-38

Firm Name: RICHMOND
Per C. S. C. WOLFF

* * * * * * *

(On back hereof appeared a receipt which was marked in evidence as Government's Exhibit 27.)

7744 *Defendants' Exhibit 1:*

EASTERN STATES TRANSPORTATION CO.
87 Pennsylvania Ave., Uniontown, Pa.

Date: March 4, 1938 Order No. 379
To Frank Bernot—No. 2
Pick up at Richmond Radiator Company–Uniontown, Pa.
Account of Richmond Radiator Company
Deliver to Richmond Radiator Company–27th St.–Long Island City

All merchandise transported is covered by separate Consignor's Bill of Lading or Shipping Order, unless specifically stated otherwise herein.

7745 THE FOLLOWING MERCHANDISE:

18 crates Tubs Shipper's #05398
71 crates Smallware

	Return 377 — Sugar		
Check $150.00	Pitt. Chas. Koch 200 bags		
	20,1000	26	52.26

Gross Weight: 18,185# Rate: .80 Amount: 90.93
Terms: Prepaid Date Delivered.....

Firm Name: RICHMOND RAD. CO.
Per M. LIPSON

7746 3/7/38

(On back hereof appeared a receipt which was marked in evidence as Government's Exhibit 26.)

Defendants' Exhibit 1. 7747

EASTERN STATES TRANSPORTATION CO.
87 Pennsylvania Ave., Uniontown, Pa.

Date: March 21, 1938 Order No. 464
To Frank Bernot—No. 2
Pick up at Richmond Radiator Company–Uniontown, Pa.
Account of Richmond Radiator Company
Deliver to Richmond Radiator Company–27th St.–Long Island City

All merchandise transported is covered by separate Consignor's Bill of Lading or Shipping Order, unless specifically stated otherwise herein.

7748

THE FOLLOWING MERCHANDISE:

135 crates Lavs Shipper's #10756
51 crates Sinks

Return
Order No. 453

Check	200 Sugar	Chas. Koch
125.00	Wt. R.	
	20100 .26	$52.26

Gross Weight: 21,377# Rate: .50 Amount: 100.89
Terms: Prepaid Date Delivered: 3-24-38

Firm Name: RICHMOND RAD. CO.
Per R. C. DAWKINS

* * * * * * * * 7749

(On back hereof appeared a receipt which was marked in evidence as Government's Exhibit 25.)

7750 *Defendants' Exhibit I.*

EASTERN STATES TRANSPORTATION CO.
87 Pennsylvania Ave., Uniontown, Pa.

Date: March 15, 1938 Order No. 426
To Frank Bernot—No. 2
Pick up at Richmond Radiator Company–Uniontown, Pa.
Account of Richmond Radiator Company
Deliver to Richmond Radiator Company–27th St.–Long Island City

All merchandise transported is covered by separate Consignor's Bill of Lading or Shipping Order, unless specifically stated otherwise herein.

7751 THE FOLLOWING MERCHANDISE:

3 crates Tubs
69 crates Sinks
Shipper's No. 10702

Return
Order No. 418
Chas. Koch
200 Sugar .26¢ = 52.26
Weight 20,100

Check
$125.00

Gross Weight; 19597# Rate: .50 Amount: 97.99
Terms: Prepaid Date Delivered: 3-16-38

Firm Name: RICHMOND RAD. CO.
Per R. C. DAWKINS

7752 * * * * * * *

(On back hereof appeared a receipt which was marked in evidence as Government's Exhibit 24.)

Defendants' Exhibit J.

7753

Agreement between International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Truck Drivers and Chauffeurs Local Union No. 807, and Perrys Express, Inc., on the same printed form as Government's Exhibit 4, dated May 9, 1938, and signed as follows:

For the Firm of:
PERRYS EXPRESS INC.
C. E. PERRY Pres.

FOR LOCAL NO. 807
AUSTIN FUREY

7754

Number of Men Employed?.....
Office Address? 608 Bailey Ave.
Garage Address? Buffalo N. Y.

7755

Defendants' Exhibit K.

Official Due Card of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers.

Defendants' Exhibit L.

WESTERN UNION TELEGRAM

NY150 3=KB Bridgeton NJ 30 825P

1937 Apr 30 PM 8 59

Thomas Sharkey
19505 122 Ave St Albans NY

Truck Wilberts morning

LAHN.

Defendants' Exhibit M.

WESTERN UNION TELEGRAM

NAC144 3=KB Bridgeton NJ 5 903P

1937 May 5 PM 9 16

Thomas Sharkey
195-05 122 Ave St Albans NY

Truck at Wolberts

LAHN.

Defendants' Exhibit N.

WESTERN UNION TELEGRAM

NA393 10=KB Bridgeton NJ 4 835P

1937 May 4 PM 9 18

Thomas Sharkey
195-05 122 Ave St Albans NY

One truck Wolbert one truck Liberty Street Ferry. Seven AM

LAHN.

7762

Defendants' Exhibit O.

WESTERN UNION TELEGRAM

NH1 4=KB Bridgeton NJ 3 1050P

1937 May 3 PM 11 07

Thomas Sharkey

Deliver immediately 195-05 122 Ave St Albans NY

Trucks Fear and Wolberts

LAHN.

7763

Defendants' Exhibit P.

WESTERN UNION TELEGRAM

ND140 4 XC=KB Bridgeton NJ 2 1135A

1937 May 2 PM 12 16

Thomas Sharkey
195-05 122 Ave St Albans

Truck Wilberts and Fear

MILTON LAHN.

7764

Defendants' Exhibit Q. 7765

RELIABLE MOTOR LINES, INC.
77 Wall Street
Norwalk Connecticut

Norwalk, Conn. Mar 5 1937 No. 3989

Pay to the order of
J. Deegan $43.60/100
Forty-three and 60/100 ..... Dollars

RELIABLE MOTOR LINES, INC.
H. A. MINER President

To THE MERCHANTS BANK AND TRUST COMPANY 7766
Norwalk, Conn.

This check is in settlement of the following invoices.

To 3/6	44.04
S. S.	.44
	43.60

(Endorsed)

Joseph Deegan
303 W. 21 St.
City

Pay to the order of,
Manufacturers Trust Company 7767
New York Savings Bank

(Plus Customary Bank Stamps showing payment)

Defendants' Exhibit R.

Photograph of Harry Zollinger.

Defendants' Exhibit S.

SOUTH JERSEY CHAUFFEURS, TEAMSTERS AND HELPERS UNION—LOCAL 590 OF VINELAND, N. J. AND VICINITY

Affiliated with International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers and American Federation of Labor

PRODUCE CONTRACT

AGREEMENT entered into between R. A. BYRNES and LOCAL 590 July 3, 1937 party of the first part and DRIVERS AND CHAUFFEURS LOCAL UNION 590, party of the second part, to govern all hours, wages and working conditions herein set forth from the.....day of....., 193.... until the.....day of....., 193....

SECTION 1—

	Baltimore, Md.	Boston, Mass. Providence, R. I. Springfield, Mass. Elmira, N. Y.	Pittsburg, Pa. Rochester, N. Y. Uniontown, Pa.	Hartford New Haven Scranton Wilkesbarre	N. Y. City Wash., D. C.	Phila., Pa. Camden, N. J. Atlantic City
Trailers.....	$ 8.50	$21.00	$22.50	$15.00	$9.50	$5.50
Trailers, Three Axle.....	$18.50	$18.50	$20.00	$13.50	$8.50	$5.00
Light Trucks.....	$ 6.50	$16.00	$17.50	$12.00	$7.50	$4.00
3 Ton.....	$ 7.00				$8.00	$4.50

Drivers to receive above rate of wages, this does not include helpers.

All return loads up to 6 tons $3.00 over 6 ton $.50 per ton.

SECTION 2—Members of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers with paid up cards to be employed, and if not available then those who are to become members at the next meeting of the party of the second part.

The members of the party of the first part hereby agree to deduct all dues, assessments and or fines from the members of the party of the second part in his employ upon notification from the party of the second part, and with the consent of said member.

SECTION 3—The Local Union will appoint one of its members to act as Stable Steward, whose duty it shall be to see the conditions of this contract are not broken by either employer or employees, and in case of a slack season he shall be the last man to be laid off, and under no consideration shall he be discriminated against.

And the party of the first part shall appoint a Repre-
7775 sentation whose duty it shall be to see that the members of the party of the first part shall not violate the provisions of this agreement.

SECTION 4—Employee to be given one week notice before being discharged and to give employer same notice before resigning. Except in case of theft or driving a truck while drunk.

SECTION 5—All Drivers and Chauffeurs to make sidewalk deliveries, they will not be responsible for any losses in making deliveries in buildings, except where helpers are furnished. No driver is to load or unload any vehicle other than one they drive.

SECTION 6—Employees member of the party of the sec-
7776 ond part who are removed from service for any doubtful cause, shall have an investigation within three days following such release, at which investigation he may be represented by a member of his committee, and if found guilty he has to suffer the penalty, and if found not guilty of the offense charged he shall return to service, and be paid for all time lost.

If no agreement can be reached between the employer member of the first part and the committee representing

the Union party of the second part, the matter shall be referred to a committee of two members of the party of the first part not involved in the controversy or dispute and two members selected by the Union. These four men so selected shall hear all the facts in the case and render their decision to be final and binding on both parties.

SECTION 7—In hiring extra equipment—hire only members of the party of the first part that have an agreement with Local No. 590, of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America.

SECTION 8—Employers to protect employees with Workmen's Compensation Insurance as required by the Laws 7778
of New Jersey, and any other state in which they operate.

SECTION 9—In case of any serious controversy or dispute arising between either party to this agreement such dispute or matter in controversy shall be submitted to arbitration; each party to this agreement shall appoint two of its members who shall hear the facts of the case or dispute and will be enable to render decisions in such cases binding on both parties. In the event of a failure of such board of arbitration to reach a decision, a fifth member selected outside of the industry shall be selected by such board of arbitration for the purpose of rendering a decision that shall be final and binding on all parties hereto.

SECTION 10—This agreement to be in full force and 7779
effect from July 3, 1937 to June 1, 1938, and shall remain in effect from year to year unless thirty days notice in writing, in advance of expiration is given by either party to the other, with proposed changes.

For Local .....

.....

For Firm of:
R. A. BYRNES INC.
.....

7780 **Judge's Authentication of Bill of Exceptions.**

The foregoing is herewith certified and allowed as the bill of exceptions, and comprises a record of all of the material evidence in this case and of all of the exceptions taken by the defendants-appellants herein at the trial hereof.

Dated: New York, N. Y., November 13, 1940.

MURRAY HULBERT,
U. S. D. J.

7781 **Stipulation Settling Bill of Exceptions.**

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties hereto that the foregoing is a true and complete transcript of the record of the said District Court in the above-entitled cause, as agreed upon by the parties, and contains all of the necessary evidence taken on the trial of this cause for the purpose of presenting the appeal of the defendants-appellants, Local 807 of the International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, William Campbell, Austin Furey, George Bagley, Joseph Bender, Joseph Deegan, Robert Dillon, Frank Downs, John Gaughan, John Horan, Andy Jakakas, Abraham Klenofsky,
7782 Leonard La Marne, Manuel Magan, James Murphy, George Needelmann, Bernard L. Randazzo, Samuel Reichler, Morris Reichler, Thomas Sharkey, William Simpson, Anthony Venditti, Peter Waskiewicz, Edward F. Weinheimer, John J. Weinheimer, Harry Zollinger, and Michael Cahill, and that the same has been prepared within the time allowed

by law and the Court, and that it may be settled and ordered on file as a bill of exceptions herein.

Dated: New York, November 13, 1940.

JOHN T. CAHILL,
United States Attorney for the Southern District of New York.

EDWARD C. MAGUIRE AND
LOUIS B. BOUDIN,
Attorneys for Defendant Local 807.

LOUIS B. BOUDIN, 7784
Attorney for Defendant Michael Cahill.

JAMES D. C. MURRAY,
Attorney for the individual Defendants other than Michael Cahill.

Order Settling Bill of Exceptions.

Upon the foregoing stipulation of the United States Attorney for the Southern District of New York and the attorney for appellants, dated November 13, 1940, it is

ORDERED that the foregoing record be ordered on file as a bill of exceptions and transcript of record in the above-entitled cause. 7785

Dated: New York, November 13, 1940.

MURRAY HULBERT,
U. S. D. J.

7786 **Judgment Against Local 807 (C 102-394).**

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York, on June 19th, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN & HELPERS OF AMERICA.	C. 102-394 U. S. Criminal Code, Section Violation of Sherman Anti-Trust Act.

7787

On motion of the United States Attorney, Ordered Sentence.

It is thereupon ordered and adjudged that the above named defendant be fined $2,000.

HULBERT,
United States District Judge.

7788

Judgment Against Local 807 (C 102-395). 7789

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York, on June 19th, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN & HELPERS OF AMERICA.	C. 102-395 U. S. Criminal Code, Section Violation of Anti-Racketeering Act. 7790

On motion of the United States Attorney, Ordered Sentence.

It is thereupon ordered and adjudged that the above named defendant be fined $2,000 on each of Counts 1, 2, 3 and 4—total fine $8,000.

HULBERT,
United States District Judge.

7791

7792

Judgment (William Campbell).

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. WILLIAM CAMPBELL.	C. 102/394 Sherman Anti Trust Act C. 102/395 Anti Racketeering Act

7793

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a Penitentiary for and during the term and period of

C 102/395—Count 1—Two Years.

One year on Counts 2-3-4 to run concurrently.

C 102/394—One Year.

Prison sentence on indictment C 102/394 and Counts 2-3-4 of indictment C 102/395 to run concurrently with each other and consecutively to sentence on Count 1 of indictment C 102/395 and suspended.

7794

Probation for three years to begin at termination of sentence on Count 1 of indictment C 102/395, subject to the standing probation order of this Court.

Defendant to surrender June 26th, 1940. Bail continued.

HULBERT,
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the

at

WHEREAS the foregoing judgment and sentence was pronounced against the defendant named therein 7796

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await transportation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention. 7797

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June

GEORGE J. H. FOLLMER,
Clerk.

7798 **Judgment (Austin Furey).**

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. 7799 AUSTIN FUREY.	C. 102/394 Sherman Anti Trust Act C. 102/395 Anti Racketeering Act

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a penitentiary for and during the term and period of

C 102/395—Count 1—Two years.

One year on Counts 2-3-4 to run concurrently.

C 102/394—One year.

Prison sentence on indictment C 102/394 and Counts
7800 2-3-4 of indictment C 102/395 to run concurrently with each other and consecutively to sentence on Count 1 of indictment C 102/395 and suspended.

Probation for three years to begin at termination of sentence on Count 1 of indictment C 102/395, subject to the standing probation order of this Court.

Defendant to surrender June 26th, 1940. Bail continued.

HULBERT,
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the

at

WHEREAS the foregoing judgment and sentence was pronounced against the defendant named therein 7802

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await transportation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention. 7803

WITNESS, the Honorable , Judge of said Court, and the seal thereof affixed at New York City in said District this 19th day of June, 1940.

GEORGE J. H. FOELMER,
Clerk.

7804 **Judgment (George Bagley).**

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19th, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. GEORGE BAGLEY.	C. 102/394 Sherman Anti Trust Act

7805

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of Three Months.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7806

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. GEORGE BAGLEY.	C. 102/395 Anti Racketeering Act 7808

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the period of One Year on Counts 1 & 2 to run concurrently and suspended.

Probation for three years to begin at termination of sentence on indictment C 102/394, subject to the standing probation order of this Court.

HULBERT, 7809
United States District Judge.

7810 *Judgment (George Bagley).*

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pro-
7811 nounced against the defendant named therein

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await trans-
7812 portation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention.

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June

GEORGE J. H. FOLLMER,
Clerk.

Judgment (Joseph Bender). 7813.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA
vs.
JOSEPH BENDER.

C. 102/394
Sherman Anti Trust Act

7814

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of Six Months.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7815

7816 *Judgment (Joseph Bender).*

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA,
vs.
JOSEPH BENDER.

Act
Anti Racketeering
C. 102/395

7817

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of One Year on Counts 1 & 2 to run concurrently and suspended.

Probation for three years to begin at termination of sentence on indictment C 102/394, subject to the standing probation order of this Court.

7818

HULBERT,
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pronounced against the defendant named therein 7820

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await transportation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention. 7821

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June

GEORGE J. H. FOLLMER,
Clerk.

7822

Judgment (Michael Cahill).

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. MICHAEL CAHILL.	C. 102/394 Sherman Anti Trust Act

7823

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of Three Months.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7824

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. MICHAEL CAHILL.	C. 102/395 Anti Racketeering Act 7826

On motion of the United States Attorney, Ordered Sentence.

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of One Year on Counts 1 & 2 to run concurrently and suspended.

Probation for three years to begin at termination of sentence on indictment C 102-394, subject to standing probation order of this Court.

HULBERT, 7827
United States District Judge.

7828 *Judgment (Michael Cahill).*

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the

at

WHEREAS the foregoing judgment and sentence was pro-
7829 nounced against the defendant named therein

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been com-
7830 mitted to a jail or other place of detention to await transportation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention.

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk.

Judgment (Joseph Deegan). 7831

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. JOSEPH DEEGAN.	C. 102/394 Sherman Anti Trust Act

7832

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of One Month.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7833

7834 *Judgment (Joseph Deegan).*

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. JOSEPH DEEGAN.	C. 102/395 Anti Racketeering Act

7835

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of One Year on Count 1. Sentence suspended.

Probation for three years to begin at termination of sentence on indictment C 102-394, subject to the standing probation order of this Court.

7836

HULBERT,
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pronounced against the defendant named therein 7838

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await transportation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention. 7839

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June, 1940.

GEORGE J. H. FOLEMER,
Clerk.

7840

Judgment (Robert Dillon).

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. 7841 ROBERT DILLON.	C. 102/394 Sherman Anti Trust Act C. 102/395 Anti Racketeering Act

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a penitentiary for and during the term and period of

C 102/395—Count 1—One year & one day.

One year on Counts 2-3-4 to run concurrently.

C 102/394—One year.

Prison sentence on indictment C 102/394 and Counts 2-3-4 of indictment C 102/395 to run concurrently with
7842 each other and consecutively to sentence on Count 1 of indictment C 102/395 and suspended.

Probation for three years to begin at termination of sentence on Count 1 of indictment C 102/395, subject to the standing probation order of this Court.

Defendant to surrender June 26th, 1940. Bail continued.

HULBERT,
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK.

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the

at

WHEREAS the foregoing judgment and sentence was pronounced against the defendant named therein 7844

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await transportation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention. 7845

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June

GEORGE J. H. FOLTMER,
Clerk.

7846 **Judgment (Frank Downs).**

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. FRANK DOWNS.	C. 102/394 Sherman Anti Trust Act

7847 On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of one year.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7848

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. FRANK DOWNS.	C. 102/395 Anti Racketeering Act 7850

On motion of the United States Attorney. Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of one year on each of Counts 1-2-3 & 4 to run concurrently and suspended.

Probation for three years to begin at termination of sentence on indictment C 102-394, subject to the standing probation order of this Court.

HULBERT, 7851
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pro-
7853 nounced against the defendant named therein

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been com-
7854 mitted to a jail or other place of detention to await transportation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention.

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk.

Amended Judgment (Frank Downs). 7855

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 26, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

AMENDED JUDGMENT AND COMMITMENT.

THE UNITED STATES OF AMERICA vs. FRANK DOWNS.	C. 102/394 Sherman Anti Trust Act 7856

Sentence dated June 19, 1940 reduced.

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a for and during the term and period of four months.

Bail 1500 pending appeal.

HULBERT,
United States District Judge.

7857

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pro-
7859 nounced against the defendant named therein

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been com-
7860 mitted to a jail or other place of detention to await transportation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention.

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 26 day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk.

Judgment (John Gaughan).

7861

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. JOHN GAUGHAN.	C. 102/394 Sherman Anti Trust Act

7862

On motion of the United States Attorney, Ordered Sentence—

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of One month.

Defendant to surrender June 26. Bail continued.

HULBERT,
United States District Judge.

7863

7864 *Judgment (John Gaughan).*

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. JOHN GAUGHAN.	C. 102/395 Anti Racketeering Act

7865

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of One year on each of Counts 1 & 2, to run concurrently and suspended.

Probation three years to begin at termination of sentence on indictment C 102-394, subject to the standing probation order of this Court.

7866

HULBERT,
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pronounced against the defendant named therein 7868

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await transportation to the place at which said sentence is to be 7869 served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention.

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19th day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk.

7870 **Judgment (John Horan).**

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. JOHN HORAN.	C. 102/394 Sherman Anti Trust Act

7871

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a for and during the term and period of Three months.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7872

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. JOHN HORAN.	C. 102/395 Anti Racketeering Act 7874

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a for and during the term and period of One year on Count 1. Sentence suspended.

Probation three years to begin at termination of sentence on indictment C 102-394, subject to the standing probation order of this Court.

HULBERT, 7875
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the

at

WHEREAS the foregoing judgment and sentence was pro-
7877 nounced against the defendant named therein

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been com-
7878 mitted to a jail or other place of detention to await transportation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention.

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk.

Judgment (Andy Jakakas). 7879

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. ANDY JAKAKAS.	C. 102/394 Sherman Anti Trust Act

7880

On motion of the United States Attorney, Ordered Sentence.

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a for and during the term and period of Six months.

Defendant to surrend June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7881

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. ANDY JAKAKAS.	C 102/395 Anti Racketeering Act

7883

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a for and during the term and period of One year on Count one. Sentence suspended.

Probation three years to begin at termination of sentence on indictment C 102-394, subject to the standing probation order of this Court.

7884

HULBERT,
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the

at

WHEREAS the foregoing judgment and sentence was pronounced against the defendant named therein 7886

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await transportation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention. 7887

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19th day of June

GEORGE J. H. FOLLMER,
Clerk.

7888 **Judgment (Abraham Klenofsky).**

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. ABRAHAM KLENOFSKY.	C. 102/394 Sherman Anti Trust Act

7889

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a for and during the term and period of six months.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7890

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. ABRAHAM KLENOFSKY.	C. 102/395 Anti Racketeering Act.

7892

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of one year on each of Counts 1-2-3 & 4, to run concurrently and suspended.

Probation for three years to begin at termination of sentence on indictment C 102-394, subject to the standing probation order of this Court.

7893

HULBERT,
United States District Judge.

7894 *Judgment (Abraham Klenofsky).*

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pro-
7895 nounced against the defendant named therein

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await
7896 transportation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention.

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk.

7897

Judgment (Leonard La Marne).

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. LEONARD LA MARNE.	C. 102/394 Sherman Anti Trust Act

7898

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of Three months.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7899

7900 *Judgment (Leonard La Marne).*

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. LEONARD LA MARNE.	C. 102/395 Anti Racketeering Act

7901

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a for and during the term and period of

One year on Count 1. Sentence suspended.

Probation three years to begin at termination of sentence on indictment C 102-394 subject to the standing probation order of this Court.

7902

HULBERT,
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pronounced against the defendant named therein 7904

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with the said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await transportation to the place at which said sentence is to be 7905 served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention.

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June

GEORGE J. H. FOLLMER,
Clerk.

7906 **Judgment (Manuel Magan).**

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. MANUEL MAGAN.	C. 102/394 Sherman Anti Trust Act C. 102/395 Anti Racketeering Act

7907

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of

On C 102-394—One year.

On C 102-395—One year on each of Counts 1 & 2 to run concurrently with each other and with sentence on indictment C 102-394, all suspended.

Probation three years, subject to the standing probation order of this Court.

7908

HULBERT,
United States District Judge.

Judgment (James Murphy). 7909

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. JAMES MURPHY.	C. 102/394 Sherman Anti Trust Act

7910

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of Three months.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7911

7912 *Judgment (James Murphy).*

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. JAMES MURPHY.	C. 102/395 Anti Racketeering Act

7913

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of

One year on each of Counts 1 & 2 to run concurrently and suspended.

Probation three years to begin at termination of sentence on indictment C 102-394, subject to the standing
7914 probation order of this Court.

HULBERT,
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pronounced against the defendant named therein. 7916

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await transportation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention. 7917

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk.

7918 **Judgment (George Needelman).**

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. GEORGE NEEDELMAN.	C. 102/394 Sherman Anti Trust Act C. 102/395 Anti Racketeering Act

7919

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a penitentiary for and during the term and period of

C 102/395—Count 1—One year and one day.

One year on Counts 2-3-4 to run concurrently.

C 102/394—One year.

Prison sentence on indictment C 102/394 & Counts 2-3-4 of indictment C 102/395 to run concurrently with each other & consecutively to sentence on Count 1 of indictment C 102/395 and suspended.

7920

Probation for three years to begin at termination of sentence on Count 1 of indictment C 102/395, subject to the standing probation order of this Court.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pronounced against the defendant named therein 7922

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await transportation to the place at which said sentence is to be 7923 served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention.

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk.

7924

Judgment (Bernard L. Randazzo).

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. BERNARD L. RANDAZZO.	C. 102/394 Sherman Anti Trust Act

7925

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of Three months.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7926

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. BERNARD L. RANDAZZO.	C. 102/395 Anti Racketeering Act 7928

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of one year on each of Counts 1-2-3 & 4, to run concurrently and suspended.

Probation three years to begin at termination of sentence on indictment C 102-394, subject to the standing probation order of this Court.

HULBERT,
United States District Judge. 7929

7930 *Judgment (Bernard L. Randazzo).*

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pro-
7931 nounced against the defendant named therein

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ: and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await trans-
7932 portation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention.

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk.

Judgment (Samuel Reichler). 7933

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. SAMUEL REICHLER.	C. 102/394 Sherman Anti Trust Act

7934

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of six months.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7935

7936 *Judgment (Samuel Reichler).*

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. SAMUEL REICHLER.	C. 102/395 Anti Racketeering Act

7937

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of one year on each of Counts 1-2-3 & 4, to run concurrently and suspended.

Probation three years to begin at termination of sentence on indictment C 102-394, subject to the standing probation order of this Court.

7938

HULBERT,
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the

at

WHEREAS the foregoing judgment and sentence was pronounced against the defendant named therein 7940

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await transportation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention. 7941

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk.

7942 **Judgment (Morris Reichler).**

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. MORRIS REICHLER.	C. 102/394 Sherman Anti Trust Act C. 102/395 Anti Racketeering Act.

7943

On motion of the United States Attorney, Ordered Sentence

It is thereupon order and adjudged that the aboye-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of

On C 102-394—One year.

On C 102-395—One year on Count 1, to run concurrent with sentence on indictment C 102-394, both suspended.

Probation three years subject to the standing probation order of this Court.

7944

HULBERT,
United States District Judge.

Judgment (Harry Zollinger). 7945

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. HARRY ZOLLINGER.	C. 102/394 Sherman Anti Trust Act

7946

On motion of the United States Attorney, Ordered Sentence.

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of seven months.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7947

7948 *Judgment (Harry Zollinger).*

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. HARRY ZOLLINGER.	C. 102/395 Anti Racketeering Act

7949

On motion of th United States Attorney. Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of

Count 1—One year.

Execution of sentence suspended. Probation for three years to begin at termination of sentence on indictment C 102/394 subject to the standing probation order of this Court.

7950

HULBERT,
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the

at

WHEREAS the foregoing judgment and sentence was pronounced against the defendant named therein 7952

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await transportation to the place at which said sentence is to be 7953 served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention.

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk.

7954

Judgment (Thomas Sharkey).

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA. vs. THOMAS SHARKEY.	C. 102/394 Sherman Anti Trust Act

7955

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of one month.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7956

Judgment (Thomas Sharkey). 7937

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. THOMAS SHARKEY.	C. 102/395 Anti Racketeering Act 7938

On motion of the United States Attorney. Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of one year on County 1. Sentence suspended.

Probation three years to begin at termination of sentence on indictment C 102-394, subject to the standing probation order of this Court.

HULBERT. 7939
United States District Judge.

7960 *Judgment (Thomas Sharkey).*

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pro-
7961 nounced against the defendant named therein

AND, WHEREAS the Attorney General of the United States has designed the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await trans-
7962 portation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention.

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk.

Judgment (William Simpson). 7963

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA -vs- WILLIAM SIMPSON.	C. 102/394 Sherman Anti Trust Act

7964

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of two months.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7965

7966 *Judgment (William Simpson).*

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. 7967 WILLIAM SIMPSON.	C. 102/395 Anti Racketeering Act

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of one year on each of Counts 1-2-3 & 4, to run concurrently and suspended.

Probation three years to begin at termination of sentence on indictment C 102-394, subject to the standing probation order of this Court.

7968 HULBERT,
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pronounced against the defendant named therein 7970

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await transportation to the place at which said sentence is to be 7971 served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention.

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City, in said District this 19 day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk

7972

Judgment (Tony Venditti).

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. TONY VENDITTI.	C. 102/394 Sherman Anti Trust Act

7973

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of two months.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7974

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge.*

THE UNITED STATES OF AMERICA vs. TONY VENDITTI.	C. 102/395 Anti Racketeering Act 7976

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of one year on each of Counts 1-2-3 & 4, to run concurrently and suspended.

Probation three years to begin at termination of sentence on indictment C 102-394, subject to the standing probation order of this Court.

HULBERT, 7977
United States District Judge.

7978 *Judgment (Tony Venditti).*

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pro-
7979 nounced against the defendant named therein

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await trans-
7980 portation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention.

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City, in said District this 19 day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk.

Judgment (Peter Waskiewicz). 7981

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. PETER WASKIEWICZ.	C. 102/394 Sherman Anti Trust Act C. 102/395 Anti Racketeering Act 7982

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of

On C 102-394—One year.

On C 102-395—One year on Count 1 to run concurrent with sentence on indictment C 102-394, both suspended.

Probation three years; subject to the standing probation order of this Court.

HULBERT, 7983
United States District Judge.

7984

Judgment (Edward Weinheimer).

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. EDWARD WEINHEIMER.	C. 102/394 Sherman Anti Trust Act C. 102/395 Anti Racketeering Act

7985

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a penitentiary for and during the term and period of

C 102/395—Count 1—Eighteen months.

One year on Counts 2-3-4 to run concurrently.

C 102/394—One year.

Prison sentence on indictment C 102/394 and Counts 2-3-4 of indictment C 102/395 to run concurrently with each other and consecutively to sentence on Count 1 of

7986

indictment C 102/395 and suspended.

Probation for three years to begin at termination of sentence on Count 1 of indictment C 102/395, subject to the standing probation order of this Court.

Defendant to surrender June 26th, 1940. Bail continued.

HULBERT,
United States District Judge.

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pronounced against the defendant named therein — 7988

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been committed to a jail or other place of detention to await transportation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention. 7989

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk.

7990 **Judgment (John Weinheimer).**

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. JOHN WEINHEIMER.	C. 102/394 Sherman Anti Trust Act

7991 On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of six months.

Defendant to surrender June 26, 1940. Bail continued.

HULBERT,
United States District Judge.

7992

Judgment (John Weinheimer). 7993

JUDGMENT.

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court House, in the Borough of Manhattan, City of New York on June 19, 1940.

Present: The Honorable MURRAY HULBERT, *Judge*.

THE UNITED STATES OF AMERICA vs. JOHN WEINHEIMER.	C. 102/395 Anti Racketeering Act 7994

On motion of the United States Attorney, Ordered Sentence

It is thereupon ordered and adjudged that the above-named defendant be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment in a jail for and during the term and period of

Count 1—One year.

Execution of sentence suspended. Probation for three years to begin at termination of sentence on indictment C 102/394 subject to the standing probation order of probation order of this Court.

7995

HULBERT,
United States District Judge.

7996 *Judgment (John Weinheimer).*

COMMITMENT.

IN THE

DISTRICT COURT OF THE UNITED STATES OF AMERICA

SOUTHERN DISTRICT OF NEW YORK

The President of the United States of America to the Marshal of the United States for the Southern District of New York and to of the at

WHEREAS the foregoing judgment and sentence was pro-
7997 nounced against the defendant named therein

AND, WHEREAS the Attorney General of the United States has designated the above named institution as the place of confinement where the said sentence shall be served.

NOW THIS IS TO COMMAND YOU, THE SAID MARSHAL forthwith to take and safely transport to said institution and there deliver to the officer in charge thereof the aforesaid defendant together with a copy of this writ; and you the officer in charge of said institution to receive, keep and imprison said defendant in accordance with said sentence, or until said defendant shall be otherwise discharged by due course of law. If said prisoner shall have been com-
7998 mitted to a jail or other place of detention to await transportation to the place at which said sentence is to be served, said sentence shall pursuant to law begin on the date on which said defendant was received at such jail or other place of detention.

WITNESS, the Honorable MURRAY HULBERT, Judge of said Court, and the seal thereof affixed at New York City in said District this 19 day of June, 1940.

GEORGE J. H. FOLLMER,
Clerk.

Notice of Appeal by Defendant Local 807 of International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America.

DISTRICT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA,

Plaintiff,

against

LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN & HELPERS OF AMERICA; WILLIAM DEVERY; THOMAS L. HICKEY; SAMUEL BRENNAN; JOHN FLAHERTY; WILLIAM CAMPBELL; AUSTIN FUREY; THOMAS CLARKE; THOMAS KEHOE; MICHAEL MURTAGH; J. NOONAN; FRANKIE "DOE"; CHARLES HOROWITZ; A. SLACTA; "JOHN" ACKALITIS; GEORGE BAGLEY; JOSEPH BOLTON; JOSEPH BENDER; JOHN BROWN; MICHAEL CAHILL; HARRY CASEY; JOHN CELECIA; JOSEPH DEEGAN; VINCENT DEL DUCA; HENRY DELGADO; JOSEPH DEVLIN; ROBERT DILLON; FRANK DOWNS; JOSEPH DUFFY; JAMES FITZGERALD; J. FLANAGAN; EDWARD FRANZ; JOHN GAUGHAN; FRED HARRIS; FRANCIS J. HEARN; JOHN HORAN; ANDY JAKAKAS; HARRY JARVIS; SAM JONES; M. KATZ; ABRAHAM KLENOFSKY, alias "Red" Klein; LEONARD LA MARNE; "JOHN" LACEY; LOUIS LA ROSE, alias "Louis La Rosa"; CARL MACOMBER; MANUEL MAGAN; THOMAS MOLLOY; "MOSELY" MULQUEEN; JOSEPH MURPHY; GEORGE NEEDELMANN; JOHN NICOLELLIS; GEORGE O'NEIL; WILLIAM PELKER; ELI POLLOCK; "FRENCHIE" POWERS; MURRELL PROCTOR; BERNARD L. RANDAZZO; GEORGE REGAN; SAMUEL REICHLER; MORRIS REICHLER; "HARROW ROE"; "RICHARD ROE"; RICHARD SAVAGE; EMIL SCHWARZ; EMANUEL SCHWARTZ; THOMAS SHARKEY; WILLIAM SIMPSON; FRANCIS SINCLAIR; FRANK STOLOWITZ; DAVID TELFER; TONY VENDITTI; PETER WASKIEWICZ; FRANK WEICK; EDWARD WEINHEIMER; JOHN WEINHEIMER; FRANK WEST.

Defendants.

102-395
102-394
Consolidated

8002 *Notice of Appeal (Local 807).*

The name and address of Appellant is:

Local 807 of International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, 74 Varick Street, New York, New York.

The name and address of Appellant's attorneys are:

Edward C. Maguire, 122 East 42nd Street, New York, New York, and
Louis B. Boudin, 20 West 43rd Street, New York, New York.

8003 The offense is:

Violation of the Sherman Anti-Trust Act (Title 15, Sections 1 and 2, of the United States Code); and violation of the Copeland Anti-Racketeering Act (Title 18, Sections 420a to and including 420e of the United States Code).

The date of the judgment is: June 19, 1940.

A brief description of the judgment or sentence is:

Local 807 of International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, $2,000 fine on each count of the two indictments; a total of $10,000.

8004 The name of the prison where Appellant is now confined—not confined.

Local 807 of the International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, the above named Appellant, hereby appeals to the United States Circuit Court of Appeals for the Second Circuit.

from the judgment above mentioned, on the grounds set forth below.

Dated: New York, New York, June 21, 1940.

LOCAL 807 OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN & HELPERS OF AMERICA,
By: WILLIAM S. DEVERY,
President,
Appellant.

GROUNDS OF APPEAL 8006

1. Overruling of the demurrer to the indictment under the Anti-Trust Act.

2. Overruling of the demurrer to the indictment under the Anti-Racketeering Act.

3. Denial of motions for bills of particulars.

4. Granting of Government's motion for the consolidation of the indictments.

5. Errors committed by the Trial Judge in admitting irrelevant, immaterial and incompetent testimony of a prejudicial nature.

6. Errors committed by the Trial Judge in excluding 8007
material, relevant and competent testimony offered by the defendants.

7. Error committed by the Trial Judge in refusing offer of proof on behalf of the defendant.

8. Error of the Trial Judge in denying the defendant's motions to dismiss the indictments made at the close of the Government's case.

8008 *Notice of Appeal (Local 807).*

9. Error of the Trial Judge in denying the defendant's motions to dismiss the indictments made at the close of the entire case.

10. Error of the Trial Judge in denying defendant's motions to strike out certain testimony.

11. Errors of the Trial Judge in charging the jury and in refusing to charge the jury as requested by the defendant.

12. Error of the Trial Judge in denying the motion of counsel for defendant to set aside the verdict, for a new trial and in arrest of judgment.

8009

13. That there is no evidence in the case proving or tending to prove the defendant guilty of the crime charged in the indictment under the Anti-Trust Act.

14. That there is no evidence in the case proving or tending to prove the defendant guilty of the crimes charged in the indictment under the Anti-Racketeering Act.

15. That the defendant could not be convicted on more than one count of the Anti-Racketeering Act.

16. That there is not sufficient evidence in the case to sustain the verdict of the jury under the Anti-Trust Act or on any of the counts under the Anti-Racketeering Act.

8010

17. That the evidence in the case is not sufficient to sustain the verdict as to the defendant beyond a reasonable doubt.

18. That the verdict of the jury against the defendant is contrary to the evidence and the weight thereof.

19. That illegal and incompetent evidence formed the sole basis of the verdict of the jury against the defendant.

20. That the verdict of the jury against the defendant is contrary to law.

21. That the evidence failed to establish the existence of a conspiracy to violate the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce against Unlawful Restraints and Monopolies," as charged in the indictment herein drawn under that Act.

22. That the evidence failed to establish the existence of a conspiracy to violate the Act of Congress of June 18, 1934, entitled "An Act to Protect Trade and Commerce Against Interference by Violence, Threats, Coercion, or Intimidation," as charged in the indictment herein drawn under that Act. 8012

23. That the acts proved at the trial to have been committed by the defendant, or which he agreed to commit, are within the provisos and exceptions contained in the so-called Anti-Racketeering Act.

24. That there is no evidence that any of the acts proved at the trial to have been committed by the defendant was committed in pursuance to an agreement or intention to interfere with interstate or foreign commerce.

25. That there is no evidence that any of the acts proved at the trial to have been committed by the defendant was committed in pursuance to an agreement or intention to restrain interstate or foreign commerce. 8013

26. That the Act of Congress of June 18, 1934, entitled "An Act to Protect Trade and Commerce against Interference by Violence, Threats, Coercion, or Intimidation," and commonly known as the Anti-Racketeering Act, is unconstitutional in that Congress was not empowered by the United States Constitution to enact the same.

27. That the Act of Congress of June 18, 1934, entitled "An Act to Protect Trade and Commerce against inter-

8014 *Notice of Appeal (Local 807).*

ference by Violence, Threats, Coercion, or Intimidation," and commonly known as the Anti-Racketeering Act, is unconstitutional in that the same is in violation of the provisions of the Fifth Article of Amendment to the United States Constitution.

28. That the Act of Congress of June 18, 1934, entitled "An Act to Protect Trade and Commerce against Interference by Violence, Threats, Coercion, or Intimidation," and commonly known as the Anti-Racketeering Act, is unconstitutional in that the same is in violation of the general scheme of the distribution of powers between the Federal Government and the State governments, and par-
8015 ticularly in violation of the provisions of the Tenth Article of Amendment to the United States Constitution.

29. That the Act of Congress of June 18, 1934, entitled "An Act to Protect Trade and Commerce against Interference by Violence, Threats, Coercion, or Intimidation," and commonly known as the Anti-Racketeering Act, is unconstitutional in that the same is in violation of the fundamental rights of citizens of the United States, and particularly in that it exposes the defendants to double jeopardy.

30. Upon all the exceptions taken during the trial.

8016

Notice of Appeal of Defendants William Campbell et al. 8017

DISTRICT COURT OF THE UNITED STATES.

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA,

Plaintiff,

against

LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN & HELPERS OF AMERICA; WILLIAM DEVERY; THOMAS L. HICKEY; SAMUEL BRENNAN; JOHN FLAHERTY; WILLIAM CAMPBELL; AUSTIN FUREY; THOMAS CLARKE; THOMAS KEHOE; MICHAEL MURTAGH; J. NOONAN; FRANKIE "DOE"; CHARLES HOROWITZ; A. SLACTA; "JOHN" ACKALITIS; GEORGE BAGLEY; JOSEPH BOLTON; JOSEPH BENDER; JOHN BROWN; MICHAEL CAHILL; HARRY CASEY; JOHN CELECIA; JOSEPH DEEGAN; VINCENT DEL DUCA; HENRY DELGADO; JOSEPH DEVLIN; ROBERT DILLON; FRANK DOWNS; JOSEPH DUFFY; JAMES FITZGERALD; J. FLANAGAN; EDWARD FRANZ; JOHN GAUGHAN; FRED HARRIS; FRANCIS J. HEARN; JOHN HORAN; ANDY JAKAKAS; HARRY JARVIS; SAM JONES; M. KATZ; ABRAHAM KLENOFSKY, alias "Red" Klein; LEONARD LA MARNE; "JOHN" LACEY; LOUIS LA ROSE, alias "Louis La Rosa"; CARL MACOMBER; MANUEL MAGAN; THOMAS MOLLOY; "MOSELY" MULQUEEN; JOSEPH MURPHY; GEORGE NEEDELMANN; JOHN NICOLELLIS; GEORGE O'NEIL; WILLIAM PELKER; ELI POLLOCK; "FRENCHIE" POWERS; MURRELL PROCTOR; BERNARD L. RANDAZZO; GEORGE REGAN; SAMUEL REICHLER; MORRIS REICHLER; "HARROW ROE"; "RICHARD ROE"; RICHARD SAVAGE; EMIL SCHWARZ; EMANUEL SCHWARTZ; THOMAS SHARKEY; WILLIAM SIMPSON; FRANCIS SINCLAIR; FRANK STOLOWITZ; DAVID TELFER; TONY VENDITTI; PETER WASKIEWICZ; FRANK WEICK; EDWARD WEINHEIMER; JOHN WEINHEIMER; FRANK WEST. 8018

Defendants. 8019

102-395
102-394
Consolidated

8020 *Notice of Appeal (William Campbell et al.).*

The names and addresses of Appellants are:

William Campbell, 331 East 25th Street, New York, New York.

Austin [illegible], 1350 Ogden Avenue, Bronx, New York.

George Bagley, 200 Winthrop Street, Brooklyn, New York.

Joseph Bender, 59-07 60th Street, Maspeth, L. I., New York.

Joseph Deegan, 119-26 237th Street, St. Albans, New York.

Robert Dillon, 332 Columbus Avenue, New York,
8021 New York.

Frank Downs, 221 West 15th Street, New York, New York.

John Gaughan, 283 Patchen Avenue, Brooklyn, New York.

John Horan, 518 52nd Street, Brooklyn, New York.

Andy Jakakas, 511 Park Place, Brooklyn, New York.

Abraham Klenofsky, 921 Montgomery Street, Brooklyn, New York.

Leonard LaMarne, 1254 Union Street, Brooklyn.

Manuel Magan, 508 Greenwich Street, New York, New York.

James Murphy, 433 West 24th Street, New York,
8022 New York.

George Needelmann, 457 Williams Avenue, Brooklyn, New York.

Bernard L. Randazzo, 199 13th Street, Jersey City, New Jersey.

Samuel Reichler, 7 Foster Street, Newark, New Jersey.

Morris Reichler, 129 Seymour Avenue, Newark, New Jersey.

Thomas Sharkey, 92-18 176th Street, Jamaica, New York.

William Simpson, 450 West 164th Street, New York, New York.

Tony Venditti, 2083 West 8th Street, Brooklyn, New York.

Peter Waskjewicz, c/o Weisenburger, 1712 Putnam Avenue, Brooklyn, New York.

Edward Weinheimer, 686 Tinton Avenue, Bronx, New York.

John Weinheimer, 66 East 190th Street, New York, 8024
New York.

Harry Zollinger, 580 Union Street, Brooklyn, New York.

The name and address of Appellants' attorney is:

James D. C. Murray, 233 Broadway, New York, New York.

The offense is:

Violation of the Sherman Anti-Trust Act (Title 15, Sections 1 and 2, of the United States Code); and violation of the Copeland Anti-Racketeering Act (Title 18, Sections 420a to and including 420e of the United States Code). 8025

The date of the judgment is: June 19, 1940.

A brief description of the judgment or sentence is:

William Campbell, two years on count 1 of the Anti-Racketeering Act. One year upon the indictment under the Sherman Act, and one year

upon counts 2, 3 and 4 of the Anti-Racketeering Act; this sentence to be suspended, and defendant placed on probation for three years.

Austin Furey, two years on count 1 of the Anti-Racketeering Act indictment. One year on the indictment under the Sherman Anti-Trust Act, and one year upon counts 2, 3 and 4 of the Anti-Racketeering Act. Suspended sentence on one year under the Sherman Anti-Trust Act, and one year upon counts 2, 3 and 4 of the Anti-Racketeering Act. Suspended sentence on one year under the Sherman Anti-Trust Act, and one year
8027 upon counts 2, 3 and 4 of the Anti-Racketeering Act; and defendant placed on probation for three years.

George Bagley, three months in the House of Detention under the Sherman Act. One year on the first and second counts of the Anti-Racketeering indictment, this sentence to be suspended, and defendant placed on probation for three years.

Joseph Bender, six months in the House of Detention under the Sherman Act. One year on the first and second counts of the Anti-Racketeering indictment. This sentence to be suspended and defendant placed on probation for three years.

8028 *Joseph Deegan*, one month in the House of Detention under the Sherman Act indictment. One year under the Anti-Racketeering Act indictment; sentence to be suspended upon this indictment, and defendant placed on probation for three years.

Robert Dillon, one year and one day upon count 1 of the Anti-Racketeering Act. One year on the

Sherman Act indictment, and one year upon the second, third and fourth counts of the Anti-Racketeering Act indictment; sentence to be suspended and defendant placed on three years' probation.

Frank Docus, one year under the Sherman Anti-Trust Act. One year upon each of the four counts of the Anti-Racketeering Act indictment; sentence to be suspended upon this indictment, and defendant placed on probation for three years.

John Gaughan, one month in the House of Detention under the Sherman Anti-Trust Act indictment. One year on counts 1 and 2 of the Anti-Racketeering Act; sentence to be suspended on this Act, and defendant placed on probation for three years. 8030

John Horan, three months in the House of Detention upon the Sherman Act indictment. One year on the first count of the Anti-Racketeering indictment. Sentence to be suspended on this indictment, and defendant placed on probation for three years.

Andy Jakakas, six months in the House of Detention on the Sherman Act indictment. One year on the first count of the Anti-Racketeering Act indictment; sentence to be suspended on this indictment and defendant placed on probation for three years. 8031

Abraham Klenofsky, six months in the House of Detention on the Sherman Act indictment. One year upon each of the four counts of the Anti-Racketeering Act indictment; sentence to be

suspended upon this indictment, and defendant placed on probation for three years.

Leonard LaMarne, three months in the House of Detention on the Sherman Act indictment. One year on the first count of the Anti-Racketeering indictment. Sentence suspended on this indictment, and defendant placed on probation for three years.

Manuel Magan, one year on the Sherman Anti-Trust Act indictment, and one year on the first and second counts of the Anti-Racketeering indict-
8033 ment. Sentence suspended, and defendant placed on probation for three years.

James Murphy, three months in the House of Detention on the Sherman Anti-Trust indictment. One year on counts 1 and 2 of the Anti-Racketeering indictment; sentence suspended on this indictment, and defendant placed on probation for three years.

George Needelmann, one year and one day on count 1 of the Anti-Racketeering Act indictment. One year under the Sherman Anti-Trust indictment; and one year on counts 2, 3 and 4 of the Anti-Racketeering Act indictment; sentence to be sus-
8034 pended on this indictment, and defendant placed on probation for three years.

Bernard L. Randazzo, three months in the House of Detention under the Sherman Anti-Trust Act indictment. One year upon each of the four counts of the Anti-Racketeering indictment; sentence suspended on this indictment, and defendant placed on probation for three years.

Samuel Reichler, six months in the House of Detention under the Sherman Anti-Trust Act indictment. One year upon each of the four counts of the Anti-Racketeering indictment; sentence suspended on this indictment, and defendant placed on probation for three years.

Morris Reichler, one year under the Sherman Act indictment and one year under the first count of the Anti-Racketeering indictment. Sentence suspended on both, and defendant placed on probation for three years.

Thomas Sharkey, one month in the House of Detention on the Sherman Anti-Trust indictment. 8036
One year on the first count of the Anti-Racketeering indictment; sentence suspended on this indictment, and defendant placed on probation for three years.

William Simpson, two months in the House of Detention on the Sherman Anti-Trust indictment. One year on each of the four counts of the Anti-Racketeering indictment; sentence suspended on this indictment and defendant placed on probation for three years.

Tony Venditti, two months in the House of Detention on the indictment under the Sherman Act. One year upon each of the four counts of the 8037
Anti-Racketeering Act; sentence suspended on this indictment, and defendant placed on probation for three years.

Peter Waskiewicz, one year on the Sherman Anti-Trust Act indictment; and one year on the first count of the Anti-Racketeering indictment. Sen-

8038 *Notice of Appeal (William Campbell et al.).*

tence suspended on both, and defendant placed on probation for three years.

Edward Weinheimer, eighteen months on the first count of the Anti-Racketeering Act indictment. One year on counts 2, 3 and 4 of the Anti-Racketeering Act indictment; one year under the Sherman Act indictment; those four sentences to follow the previous one, to be concurrent, and to be suspended, and probation for three years.

John Weinheimer, six months in the House of Detention on the indictment under the Sherman Anti-Trust Act. One year on the first count of
8039 the Anti-Racketeering Act indictment; sentence to be suspended on this indictment, and defendant placed on parole for three years.

Harry Zollinger, seven months in the House of Detention upon the indictment under the Sherman Anti-Trust Act. One year upon the first count of the Anti-Racketeering Act indictment; sentence suspended on this indictment, and defendant placed on probation for a period of three years.

The Appellants are not now confined to prison. They are out on bail.

8040 We, the above named Appellants, hereby appeal to the United States Circuit Court of Appeals for the Second

Circuit, from the judgments above mentioned, on the grounds set forth below.

Dated: New York, New York, June 21, 1940.

WILLIAM CAMPBELL, Appellant.
AUSTIN FUREY, Appellant.
GEORGE BAGLEY, Appellant.
JOSEPH BENDER, Appellant.
JOSEPH DEEGAN, Appellant.
ROBERT DILLON, Appellant.
FRANK DOWNS, Appellant.
JOHN GAUGHAN, Appellant.
JOHN HORAN, Appellant. 8042
By EDWARD C. MAGUIRE, Attorney.
ANDY JAKAKAS, Appellant.
ABRAHAM KLENOFSKY, Appellant.
LEONARD LAMARNE, Appellant.
MANUEL MAGAN, Appellant.
JAMES MURPHY, Appellant.
GEORGE NEEDELMANN, Appellant.
BERNARD L. RANDAZZO, Appellant.
SAMUEL REICHLER, Appellant.
MORRIS REICHLER, Appellant.
THOMAS SHARKEY, Appellant.
WILLIAM SIMPSON, Appellant.
ANTHONY VENDITTI, Appellant.
PETER WASKIEWICZ, Appellant. 8043
EDWARD F. WEINHEIMER, Appellant.
JOHN J. WEINHEIMER, Appellant.
HARRY ZOLLINGER, Appellant.

8044 *Notice of Appeal (William Campbell et al.).*

GROUNDS OF APPEAL

1. Overruling of the demurrer to the indictment under the Anti-Trust Act.

2. Overruling of the demurrer to the indictment under the Anti-Racketeering Act.

3. Denial of motions for bills of particulars.

4. Granting of Government's motion for the consolidation of the indictments.

8045 5. Errors committed by the Trial Judge in admitting irrelevant, immaterial and incompetent testimony of a prejudicial character.

6. Errors committed by the Trial Judge in excluding material, relevant and competent testimony offered by the defendants.

7. Error committed by the Trial Judge in refusing offer of proof on behalf of the defendants.

8. Error of the Trial Judge in denying the defendants' motions to dismiss the indictments made at the close of the Government's case.

8046 9. Error of the Trial Judge in denying the defendants' motions to dismiss the indictments made at the close of the entire case.

10. Error of the Trial Judge in denying defendants' motions to strike out certain testimony.

11. Errors of the Trial Judge in charging the jury and in refusing to charge the jury as requested by the defendants.

12. Error of the Trial Judge in denying the motion of counsel for defendants to set aside the verdict, for a new trial and in arrest of judgment.

13. That there is no evidence in the case proving or tending to prove the defendants, or any of them, guilty of the crime charged in the indictment under the Anti-Trust Act.

14. That there is no evidence in the case proving or tending to prove the defendants, or any of them, guilty of the crime charged in the indictment under the Anti-Racketeering Act. 8048

15. That none of the defendants could be convicted on more than one count of the Anti-Racketeering indictment.

16. That there is not sufficient evidence in the case to sustain the verdict of the jury under the Anti-Trust Act or on any of the counts under the Anti-Racketeering Act.

17. That the evidence in the case is not sufficient to sustain the verdict as to any of the defendants beyond a reasonable doubt.

18. That the verdict of the jury against the defendants, and each of them, is contrary to the evidence and the weight thereof. 8049

19. That illegal and incompetent evidence formed the sole basis of the verdict of the jury against the defendants, and each of them.

20. That the verdict of the jury against the defendants, and each of them, is contrary to law.

8050 *Notice of Appeal (William Campbell et al.).*

21. That the evidence failed to establish the existence of a conspiracy to violate the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce against Unlawful Restraints and Monopolies," as charged in the indictment herein drawn under that Act.

22. That the evidence failed to establish the existence of a conspiracy to violate the Act of Congress of June 18, 1934, entitled "An Act to Protect Trade and Commerce against Interference by Violence, Threats, Coercion, or Intimidation," as charged in the indictment herein drawn under that Act.

8051

23. That the acts proved at the trial to have been committed by the defendants, or which they agreed to commit, are within the provisos and exceptions contained in the so-called Anti-Racketeering Act.

24. That there is no evidence that any of the acts proved at the trial to have been committed by the defendants, or any of them, was committed in pursuance to an agreement or intention to interfere with interstate or foreign commerce.

25. That there is no evidence that any of the acts proved at the trial to have been committed by the defendants, or any of them, was committed in pursuance to
8052 an agreement or intention to restrain interstate or foreign commerce.

26. That the Act of Congress of June 18, 1934, entitled "An Act to Protect Trade and Commerce against Interference by Violence, Threats, Coercion, or Intimidation," and commonly known as the Anti-Racketeering Act, is unconstitutional in that Congress was not empowered by the United States Constitution to enact the same.

27. That the Act of Congress of June 18, 1934, entitled "An Act to Protect Trade and Commerce against Interference by Violence, Threats, Coercion, or Intimidation," and commonly known as the Anti-Racketeering Act, is unconstitutional in that the same is in violation of the provisions of the Fifth Article of Amendment to the United States Constitution.

28. That the Act of Congress of June 18, 1934, entitled "An Act to Protect Trade and Commerce against Interference by Violence, Threats, Coercion, or Intimidation," and commonly known as the Anti-Racketeering Act, is unconstitutional in that the same is in violation of the general scheme of the distribution of powers between the Federal Government and the State governments, and particularly in violation of the provisions of the Tenth Article of Amendment to the United States Constitution. 8054

29. That the Act of Congress of June 18, 1934, entitled "An Act to Protect Trade and Commerce against Interference by Violence, Threats, Coercion, or Intimidation," and commonly known as the Anti-Racketeering Act, is unconstitutional in that the same is in violation of the fundamental rights of citizens of the United States, and particularly in that it exposes the defendants to double jeopardy.

30. Upon all the exceptions taken during the trial. 8055

8056 **Notice of Appeal of Defendant Michael Cahill.**

DISTRICT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA,

Plaintiff,

against

LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN & HELPERS OF AMERICA; WILLIAM DEVERY; THOMAS L. HICKEY; SAMUEL BRENNAN; JOHN FLAHERTY; WILLIAM CAMPBELL; AUSTIN FUREY; THOMAS CLARKE; THOMAS KEHOE; MICHAEL MURTAGH; J. NOONAN;
8057 FRANKIE "DOE"; CHARLES HOROWITZ; A. SLACTA; "JOHN" ACKALITIS; GEORGE BAGLEY; JOSEPH BOLTON; JOSEPH BENDER; JOHN BROWN; MICHAEL CAHILL; HARRY CASEY; JOHN CELECIA; JOSEPH DEEGAN; VINCENT DEL DUCA; HENRY DELGADO; JOSEPH DEVLIN; ROBERT DILLON; FRANK DOWNS; JOSEPH DUFFY; JAMES FITZGERALD; J. FLANAGAN; EDWARD FRANZ; JOHN GAUGHAN; FRED HARRIS; FRANCIS J. HEARN; JOHN HORAN; ANDY JAKAKAS; HARRY JARVIS; SAM JONES; M. KATZ; ABRAHAM KLENOPSKY, alias "Red" Klein; LEONARD LA MARNE; "JOHN" LACEY; LOUIS LA ROSE, alias "Louis La Rosa"; CARL MACOMBER; MANUEL MAGAN; THOMAS MOLLOY; "MOSELY" MULQUEEN; JOSEPH MURPHY; GEORGE NEEDELMANN; JOHN NICOLELLIS; GEORGE O'NEIL; WILLIAM PELKER; ELI POLLOCK; "FRENCHIE" POWERS; MURRELL PROCTOR;
8058 BERNARD L. RANDAZZO; GEORGE REGAN; SAMUEL REICHLER; MORRIS REICHLER; "HARROW ROE"; "RICHARD ROE"; RICHARD SAVAGE; EMIL SCHWARZ; EMANUEL SCHWARTZ; THOMAS SHARKEY; WILLIAM SIMPSON; FRANCIS SINCLAIR; FRANK STOLOWITZ; DAVID TELLER; TONY VENDITTI; PETER WASKIEWICZ; FRANK WEICK; EDWARD WEINHEIMER; JOHN WEINHEIMER; FRANK WEST.

Defendants.

102-395
102-394
Consolidated

Notice of Appeal (Michael Cahill). 8059

The name and address of Appellant is:

Michael Cahill, 6613 Ft. Hamilton Parkway, Brooklyn, New York.

The name and address of Appellant's attorney is:

Louis B. Boudin, 20 West 43rd Street, New York, New York.

The offense is:

Violation of the Sherman Anti-Trust Act (Title 15, Sections 1 and 2, of the United States Code); and violation of the Copeland Anti-Racketeering 8060
Act (Title 18, Sections 420a to and including 420e of the United States Code).

The date of the judgment is: June 19, 1940.

A brief description of the judgment or sentence is:

Michael Cahill, three months in the House of Detention under the Sherman Act. One year on the first two counts of the Anti-Racketeering Act: this sentence to be suspended, and defendant placed on probation for three years.

The Appellant is not now confined to prison. He is out on bail.

8061

I; the above named Appellant, hereby appeal to the United States Circuit Court of Appeals for the Second Circuit, from the judgment above mentioned, on the grounds set forth below.

Dated: New York, New York, June 21, 1940.

MICHAEL CAHILL,
By LOUIS B. BOUDIN, Attorney,
Appellant.

8062 *Notice of Appeal (Michael Cahill).*

GROUNDS OF APPEAL

1. Overruling of the demurrer to the indictment under the Anti-Trust Act.

2. Overruling of the demurrer to the indictment under the Anti-Racketeering Act.

3. Denial of motions for bills of particulars.

4. Granting of Government's motion for the consolidation of the indictments.

8063 5. Errors committed by the Trial Judge in admitting irrelevant, immaterial and incompetent testimony of a prejudicial nature.

6. Errors committed by the Trial Judge in excluding material, relevant and competent testimony offered by the defendants.

7. Error committed by the Trial Judge in refusing offer of proof on behalf of the defendant.

8. Error of the Trial Judge in denying the defendant's motions to dismiss the indictments made at the close of the Government's case.

8064 9. Error of the Trial Judge in denying the defendant's motions to dismiss the indictments made at the close of the entire case.

10. Error of the Trial Judge in denying defendant's motions to strike out certain testimony.

11. Errors of the Trial Judge in charging the jury and in refusing to charge the jury as requested by the defendant.

12. Error of the Trial Judge in denying the motion of counsel for defendant to set aside the verdict, for a new trial and in arrest of judgment.

13. That there is no evidence in the case proving or tending to prove the defendant guilty of the crime charged in the indictment under the Anti-Trust Act.

14. That there is no evidence in the case proving or tending to prove the defendant guilty of the crimes charged in the indictment under the Anti-Racketeering Act.

8066

15. That the defendant could not be convicted n more than one count of the Anti-Racketeering Act.

16. That there is not sufficient evidence in the case to sustain the verdict of the jury under the Anti-Trust Act or on any of the counts under the Anti-Racketeering Act.

17. That the evidence in the case is not sufficient to sustain the verdict as to the defendant beyond a reasonable doubt.

18. That the verdict of the jury against the defendant is contrary to the evidence and the weight thereof.

19. That illegal and incompetent evidence formed the sole basis of the verdict of the jury against the defendant. 8067

20. That the verdict of the jury against the defendant is contrary to law.

21. That the evidence failed to establish the existence of a conspiracy to violate the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce

against Unlawful Restraints and Monopolies," as charged in the indictment herein drawn under that Act.

22. That the evidence failed to establish the existence of a conspiracy to violate the Act of Congress of June 18, 1934, entitled "An Act to Protect Trade and Commerce against Interference by Violence, Threats, Coercion, or Intimidation," as charged in the indictment herein drawn under that Act.

23. That the acts proved at the trial to have been committed by the defendant, or which he agreed to commit;
8069 are within the provisos and exceptions contains in the so-called Anti-Racketeering Act.

24. That there is no evidence that any of the acts proved at the trial to have been committed by the defendant was committed in pursuance to an agreement or intention to interfere with interstate or foreign commerce.

25. That there is no evidence that any of the acts proved at the trial to have been committed by the defendant was committed in pursuance to an agreement or intention to restrain interstate or foreign commerce.

26. That the Act of Congress of June 18, 1934, entitled "An Act to Protect Trade and Commerce against Inter-
8070 ference by Violence, Threats, Coercion, or Intimidation," and commonly known as the Anti-Racketeering Act, is unconstitutional in that Congress was not empowered by the United States Constitution to enact the same.

27. That the Act of Congress of June 18, 1934, entitled "An Act to Protect Trade and Commerce against Interference by Violence, Threats, Coercion, or Intimidation," and commonly known as the Anti-Racketeering Act, is

unconstitutional in that the same is in violation of the provisions of the Fifth Article of Amendment to the United States Constitution.

28. That the Act of Congress of June 18, 1934, entitled "An Act to Protect Trade and Commerce against Interference by Violence, Threats, Coercion, or Intimidation," and commonly known as the Anti-Racketeering Act, is unconstitutional in that the same is in violation of the general scheme of the distribution of powers between the Federal Government and the State governments, and particularly in violation of the provisions of the Tenth Article of Amendment to the United States Constitution. 8072

29. That the Act of Congress of June 18, 1934, entitled "An Act to Protect Trade and Commerce against Interference by Violence, Threats, Coercion, or Intimidation," and commonly known as the Anti-Racketeering Act, is unconstitutional in that the same is in violation of the fundamental rights of citizens of the United States, and particularly in that it exposes the defendants to double jeopardy.

30. Upon all the exceptions taken during the trial.

8073

8074 **Order Extending Time to File Record.**

DISTRICT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA,
Plaintiff,

against

LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN & HELPERS OF AMERICA, et al.,
Defendants.

102-395
102-394
Consolidated

8075

Upon the application of Edward C. Maguire and Louis B. Boudin, Esqs., attorneys for the defendant, Local 807 of International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, and it appearing that there are reasonable grounds therefor, it is hereby

ORDERED, that the time of the said defendant, Local 807 of International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, to settle and file its Bill of Exceptions and Record on Appeal and to file its Assignment of Errors herein be, and the same hereby is, extended to and including the 1st day of October, 1940.

Dated, New York, June 26, 1940.

8076

HULBERT,
United States District Judge.

We hereby consent to the signing and entry of the foregoing Order.

Dated, New York, June 26, 1940.

JOHN T. CAHILL,
per D. L. M.
United States Attorney.

Order Extending Time to File Record.

8077

DISTRICT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA, Plaintiff, against LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN & HELPERS OF AMERICA, et al., Defendants.	102-395 102-394 Consolidated

8078

Upon the application of Louis B. Boudin, Esq., attorney for the defendant, Michael Cahill, and it appearing that there are reasonable grounds therefor, it is hereby

ORDERED, that the time of the said defendant, Michael Cahill, to settle and file his Bill of Exceptions and Record on Appeal and to file his Assignment of Errors herein be, and the same hereby is, extended to and including the 1st day of October, 1940.

Dated, New York, June 26, 1940.

HULBERT,
United States District Judge.

8079

We hereby consent to the signing and entry of the foregoing Order.

Dated, New York, June 26, 1940.

JOHN T. CAHILL,
per D. L. M.
United States Attorney.

8080 **Assignment of Errors.**

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA,

against

LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN & HELPERS OF AMERICA, et al.,

Defendants.

8081

Now come Local 807 of International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, William Campbell, Robert Dillon, Frank Downs, Austin Furey, Abraham Klenofsky, George Needelmann, Bernard L. Randazzo, Samuel Reichler, William Simpson, Tony Venditti, Edward Weinheimer, George Bagley, Joseph Bender, Michael Cahill, John Gaughan, Manuel Magan, James Murphy, John Deegan, John Horan, Andy Jakakas, Leonard La Marne, Morris Reichler, Thomas Sharkey, Peter Waskiewicz, John Weinheimer and Harry Zollinger, the defendants herein, and file the following assignment of errors and respectively show that error has intervened to their prejudice, to wit:

8082 1. The Court erroneously overruled the demurrers to the indictment interposed by the defendants and each of them.

2. The Court erroneously denied the motions of the defendants and each of them for a bill of particulars.

3. The Court erroneously granted the motion of the Government to sever the trial as to the defendants John Flaherty, Samuel Brennan, William Devery, Thomas L. Hickey and Thomas Clarke.

4. The Court erroneously granted the motion of the Government to consolidate indictments Nos. C102-394 and C102-395.

5. The Court erred, in that it denied counsel for the defendants' motion to dismiss in behalf of all of the defendants, made at the end of the Government's case.

6. The Court erred, in that it denied counsel for the defendants' renewal of the motions to dismiss made at the conclusion of the entire case.

7. The Court erred in denying the motions of the defendants' counsel for the direction of verdicts of acquittal. 8084

8. The Court erred in denying counsel for the defendants' motion to set aside the verdict of the jury, in arrest of judgment and for a new trial.

9. The Court erred in denying counsel for the defendants' motion to set aside the verdict of the jury and in arrest of judgment under the Anti-Racketeering Act, on the ground that that act as applied to the instant case, is unconstitutional.

10. The Court erred in permitting the District Attorney in his opening, to make the following remark which was calculated to create an atmosphere prejudicial to the defendants and which so militated against them as to deprive them of a fair and impartial trial; and the Court further erred in failing to instruct the jury to disregard the remark: 8085

> "'In many instances, the members of defendant union whom shippers have been coerced or compelled to employ or to keep employed, have been individuals

of bad repute who have had little or no experience in driving or unloading trucks and who have been otherwise incompetent and irresponsible.'"

11. The Court erred in permitting the District Attorney in his opening, to make the following remark which was calculated to prejudice the jury against the defendants. The Court erred in failing to instruct the jury to disregard the remark:

"The indictment says that the cost of this restraint by this local has been added to the price of the foodstuffs that have been transported in interstate com-
8087 merce and that the added cost has been paid by the ultimate consumer of the foodstuffs."

12. The Court erred in permitting the District Attorney in his opening, to make the following remark which was calculated to create an atmosphere prejudicial to the defendants and which so militated against them as to deprive them of a fair and impartial trial; and the Court further erred in failing to instruct the jury to disregard the remark:

"Now as to the means whereby this coercion was made effective: 'Specifically it is alleged that persons known to these conspirators and to persons engaged in the trucking business to be gangsters, and I quote
8088 the word gangsters and guerillas, and I again quote the word guerillas, were employed for the purpose of carrying out what I have described until now, and for the purpose of 'hreatening, beating up and assaulting persons owning or operating these interstate trucks, and that will include in some instances union drivers in good standing in their cities of origin, members of the same international union as this particular local."

13. The Court erred in permitting the District Attorney in his opening, to make the following remark which was calculated to create an atmosphere prejudicial to the defendants and which so militated against them as to deprive them of a fair and impartial trial; and the Court further erred in failing to instruct the jury to disregard the remark:

"Our proof will show in this trial that physical violence was threatened and used against persons owning or operating these interstate trucks, going so far as to include visits by these guerillas or gangsters hired here in the City of New York by these defendant conspirators to the homes of owners or operators of these 8090
trucks at out of the state points. Mind you, these gangsters or guerillas would get into their cars here and drive out to Jersey, Pennsylvania or wherever these owners or operators lived, visit them at their homes and threaten them with violence if they persisted in following their legitimate business."

14. The Court erroneously admitted into evidence the conversation allegedly had between Anna E. Chudy and William Campbell, Mr. Brennan and a third person at union headquarters regarding the Siciliano brothers, although there was no proof that the Sicilianos were committing any acts in furtherance of the alleged conspiracy:

"Q. Was there anything said in that conversation 8091
about the fact that the three Siciliano brothers were members of Local 807?

Mr. Murray: I object to the form of the question.

The Court: She may answer yes or no. Overruled.

A. Yes.

The Court: Give us the conversation.

Q. On that subject. A. Well, that if——

The Court: No, no. Wait a minute. We are concerned now with a specific conversation about the membership of three persons in Local 807. Now, what was said about that? Who said what?

The Witness: Well, one of the three men—I don't know which—one of the three men in this room with me told me if I signed a contract they would tell the Sicilianos what to do.

The Court: Is that all that was said with respect to the Sicilianos?

The Witness: Yes.

8093 The Court: Being members of 807?

The Witness: Yes.

Mr. Murray: I move to strike the answer out.

The Court: I will let it stand."

15. The Court erred in admitting, over the objection and exception of counsel for the defendants, the following conversation between Anna E. Chudy, William Campbell, Mr. Brennan and a third individual:

"Q. Did you say anything to these three men about the state of mind of your drivers with respect to these Sicilianos? A. Yes.

Q. What did you say to them about that?

Mr. Boudin: Same objection.

8094 The Court: I will allow it.

Mr. Boudin: Exception.

A. I told them that my drivers were afraid of the men."

16. The Court erred in admitting over the objection and exception of counsel for the defendants, the following:

"Q. Mr. Steller, will you now tell us in full about the episode that Mr. Murray questioned you when you were struck? A. I don't understand you.

Q. When you were hit.

The Court: You testified that you were struck by one particular person. Mr. Murray asked you if you made any report about that, and you said that you did not make any report about it; that you were struck on other occasions. Now, what do you want to know——

8096

Mr. Maguire: May I object to the District Attorney's question? The witness has already testified. The witness has said that he does not know the man that struck him, and I object to it as not binding on these defendants; certainly not on the defendant union.

The Court: Overruled.

Mr. Maguire: Exception.

A. I don't believe that I testified I was struck by anyone else.

Q. You testified you were hit once, is that right? A. Yes.

Q. Will you tell us the circumstances on that occasion? A. I backed into this warehouse of R. C. Williams, and this fellow came from across the street and he told me I could not load up there because I did not have a City man on the truck; and I told him to get off the truck and I would load up the freight myself; and he finally got off the truck and went across the street and got some more fellows and he come over and one of those fellows hit me.

8097

Q. What happened after that? A. After they hit me they beat it, and I loaded up the truck and went home."

17. The Court erroneously sustained an objection by the District Attorney to the following question:

"Q. Well, did anyone on the platform of R. C. Williams tell you in the spring of 1937 that you were to have a helper?

Mr. Cahill: Objected to as immaterial.

The Court: Sustained.

8099 Mr. Murray: May I finish the question, if your Honor please?

The Court: Certainly.

Q. Did anyone tell you on the platform of R. C. Williams in 1937 that you required a helper to assist you in unloading your truck?

Mr. Cahill: I press my objection.

The Court: Sustained.

Mr. Maguire: Exception.

Mr. Boudin: Exception."

18. The Court erroneously refused to permit counsel for defendants to inquire of Theodore Steller, a witness for the prosecution, the hours of employment of drivers in his employ:

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"Mr. Maguire: I am trying to find out, sir, the hours of employment of these drivers.

The Court: How is that material?

Mr. Maguire: It is material, sir, in the respect of showing that these men were working onerous and burdensome hours; that this was a union condition, and it was absolutely essential to the welfare of the union to try to reasonably regulate and control the hours of work of the truck drivers.

Mr. Marks: May I be heard on that, your Honor?
The Court: I am going to sustain the objection.
Mr. Maguire: I respectfully except.
Mr. Boudin: Exception. If your Honor please, I also respectfully submit that that is material on the credibility of the witness."

19. The Court, over the objection and exception of counsel for the defendant George Needelmann, erroneously admitted the following testimony:

"Q. Was he on the truck? A. He would sometimes step on the running board as you drove out, yes. That was very few occasions, your Honor. It wasn't often. 8102

Mr. Murray: I don't understand whether this witness is testifying as to Needelmann or as to some unknown person.

The Witness: Some unknown person, as we came out of the tunnel.

The Court: He is testifying as to something said by an unknown person whom he on several occasions thereafter had seen in the company of the defendant Needelmann in the vicinity of Hudson and Beach Street in the Borough of Manhattan. Is that correct or not?

The Witness: Yes, sir.

Mr. Murray: I move to strike out the testimony.

The Court: Motion denied. 8103

Mr. Murray: Exception."

20. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following conversation between the witness and unknown men:

"Q. What did you tell the man who first hopped on your truck at the exit to the Holland Tunnel?

Mr. Maguire: Objected to.

The Court: Is that the man whom he afterwards saw in the company of the defendant Needelmann?

Mr. Marks: Yes.

Mr. Maguire: It is not binding on this defendant.

The Court: Overruled.

Mr. Maguire: Exception.

Q. What did you tell him? A. I would tell him I wasn't putting on no City man.

Q. What did he say? A. Well, he would say you had to."

8105 21. The Court erroneously admitted the following testimony concerning unknown men, over the objection and exception of counsel for the defendants:

"Q. Well, you said that you told the man who got on your truck to get off and he got off. After that did you see him get in an automobile? A. Yes, sir.

Q. And did that automobile follow you or proceed in the same direction you were going? A. Yes, sir.

By Mr. Marks.

Q. How many people were in that automobile?

Mr. Maguire: I still object to it and move that it be stricken.

The Court: I will take it. Denied.

8106 Mr. Maguire: Exception.

A. Well, one, two, or three sometimes.

Q. Did you see the occupants of that automobile again? A. Yes.

Q. Where? A. Where we would make our delivery.

Q. What did they say there? A. Well, they say you would have to put on a City man.

Mr. Maguire: Objection.
The Court: I will take it.
Mr. Maguire: Exception."

22. The Court erred in admitting the following testimony, over the objection and exception of counsel for defendants:

"Q. Did they show you any kind of a book? A. Oh, they said they was 807 men.

Mr. Maguire: I object.
The Court: Strike it out. The question was if they showed you anything.

8108

Q. Did they show you anything? A. Just a union book; that is all.
Q. You saw the union book? A. Yes, they showed it to me.
Q. What was on the union book?

Mr. Boudin: I object to that.
The Court: I will allow it.

A. Their name, and the same as my book.
Q. What besides their names? A. 807.
Q. On all of them? A. Yes.

The Court: Did each man have a union book?
The Witness: Yes.
The Court: Did any of them wear buttons in their caps?

8109

The Witness: I imagine they did.

Q. Did you have any conversation with those four men that time? A. Yes, sir, we had quite an argument.
Q. Will you tell us what was said.

Mr. Maguire: I object to it.

The Court: I will allow it subject to its being shown here that it was said as far as these defendants were concerned in furtherance of a conspiracy, if the jury find there was a conspiracy, and only as to the persons whom the jury find were members of the conspiracy.

Q. Tell us what was said. A. Well, they said we had to pay them to unload there, and I went in and asked the receiver and he said he did not know anything about that.

The Court: Strike out the statement about the receiver."

23. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following testimony concerning acts committed by unknown men:

"Q. What happened? A. We stopped at the red light there and they came up and jumped on the running board and told you the story that you couldn't unload; you had to hire City men.

Q. What did you say? A. I told them we could unload her——

Mr. Maguire: I object; no identification.

The Court: I will allow it with the same restriction.

Mr. Maguire: Exception.

Q. What did you say? A. I told them we could unload our own load.

Q. You told them what? A. We could unload our own load. There was a little exchange and we would leave and they would follow.

Q. How? A. By car.

Q. Where would they follow you to? A. Wherever we were going to.

Q. What happened when you go to your destination? A. Most of the time we always had to pay them."

24. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following testimony which was highly prejudicial and which was entirely outside of the issues:

"Q. Do you remember what Needelmann said in your presence about getting gas? A. He needed gas to come back into New York——

Q. Just a minute. Don't state what he needed. Try and remember his words as best you can. What did 8114
Needelmann say?

Mr. Maguire: Objected to as not within the issues.

The Court: I will overrule the objection.

Mr. Maguire: Exception.

A. In the first place, he looked at the orders to tell——

By the Court.

Q. What did he say? You were not asked what he did. What did he say? A. 'Where are you going?'

Q. All right. And what did the driver reply, if anything? A. I was the driver, and when he asked me where I was going and I told him—— 8115

Q. You told us a moment ago that the conversation was with the driver of another truck. A. Yes, on the gas subject.

Q. And then Mr. Ennis asked you what the conversation was. What did Mr. Needelmann say to the driver of the other truck? Now, that is what you have been asked to tell us. A. That he wanted gas to come back to New York.

Q. What reply, if anything, did the driver of the truck make? A. He said, 'I am not giving no gas out; we need it ourselves.'

Q. Did Needelmann say anything? A. He said they still needed gas and they were going to take it."

25. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following hearsay testimony, which was of a prejudicial nature:

"Q. Was this delegate the same person to whom you had spoken in Needelmann's company?

8117 Mr. Maguire: Objected to.
The Court: Allowed.
Mr. Maguire: Exception.
The Court: You may answer.

A. Yes.

Q. What did you say to him? A. At that time I was going to ship——

The Court: No.

Q. What did you say?

The Court: We are not concerned with what you were going to do. The question is what conversation did you have.

Mr. Maguire: May we have the time fixed?

8118 *By the Court.*

Q. When was this? Can you be any more specific than to say that it was after the signing of the contract and before the 1st of June following? A. I wouldn't want to set a time. I am not sure.

Q. Do you remember what month it was? A. I am not sure.

Q. Is there anything that you have with you by which you can refresh your recollection? A. I believe that that might have been the beginning of April.

By Mr. Ennis.

Q. Of 1938? A. Of 1938.

Q. What did you say to the delegate? A. I asked him about having Lange make my deliveries in New York.

Q. What did he say? A. 'No.' Lange could not make the deliveries in New York."

26. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following prejudicial testimony: 8120

"Q. What did Needelmann say about that? A. That I would have to pay him for the holiday if it came in that week, a week that he worked.

Q. Even if he worked only one day? A. That is right.

Q. Well, was there any further discussion along that line? A. I received a letter from New York in regards to a man that worked——

Mr. Maguire: I object to that.

The Court: Yes. 'I received a letter from New York,' and strike out everything after that. 8121

Q. Restricting yourself, Mr. Pitzer, to the conversation with Needelmann, what else did he say? A. Needelmann told me that I would have to pay for the holiday and if I did not pay for the holiday they would tie up the trucks until I did pay it.

Q. Did you pay? A. I did.

Q. Now, during that conversation with Needelmann about paying men for holidays, did you discuss any

other subject with him concerning your New York deliveries?

Mr. Boudin: If your Honor please, I would like to object to it at this point. I do not think that conversations with Needelmann are binding upon the union, if they refer to construction of the contract. Now, there is this testimony gone in already about the holidays, and we could not anticipate; we did not know what it would lead to. I assumed it would be connected.

The Court: The objection is overruled.

Mr. Boudin: Exception.

8123

Q. Apart from this matter of payment for holidays, was there any other subject you discussed with Needelmann concerning New York deliveries?

Mr. Boudin: Same objection.

The Court: Same ruling.

Mr. Boudin: Exception.

The Court: You may answer.

A. Yes, I discussed with him about——

Q. What was said? What did you say? A. I discussed with him about making some other arrangements about delivery in here; probably arranging for a terminal here and having some other trucker deliver the merchandise."

8124

27. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following testimony concerning the conversation and altercation between the defendant George Needelmann and an unknown driver, which was incompetent and irrelevant and of an extremely prejudicial nature:

"*By the Court.*

Q: Did you know the driver of that truck? A. I did not.

By Mr. Marks.

Q. Did you hear Needelmann say anything about that truck?

Mr. Boudin: Objected to.

The Court: That will be allowed. Declaration against interest.

A. I heard him say——

Mr. Boudin: One moment. The answer is yes or no.

The Court: Yes or no.

A. Yes. 8126

Q. What did you hear him say about that truck?

Mr. Boudin: Objected to.

The Court: Overruled.

Mr. Boudin: Exception.

A. I heard him say that that driver had to put a man on to help him, and that is what the argument was about; that is what they fought about.

The Court: Strike out 'that is what they fought about.'

Q. What did you see Needelmann do after you heard him say that?

Mr. Boudin: Objected to. 8127

The Court: Allowed.

Mr. Boudin: Exception.

A. I seen him hit the guy and then kick him.

Mr. Boudin: I move to strike it out.

The Court: Denied.

Mr. Boudin: Exception."

8128 *Assignment of Errors.*

28. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following testimony despite the fact that there was no proof that the conversation took place within the period set forth in the indictment:

"Q. Did you have a conversation with Needelmann and Venditti on that occasion?

Mr. Murray: Now, if your Honor please——

A. I did——.

The Court: One moment.

Mr. Murray: I object on the ground that the
8129 time and place is too vague and indefinite, and in such a situation it is impossible for the defendants to meet the issue unless it is made more definite and specific.

The Court: Objection overruled.

Mr. Murray: Exception.

A. I did.

Q. What was the conversation? A. He asked me if I was going to hire a City man again. I said no. He said we would have to hire him; the house would not receive it; so we hired him again."

29. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following testimony which had no tendency whatever to establish
8130 the commission of the acts set forth in the indictment and which was highly prejudicial:

"Q. But it was one of Edward Weinheimer's brothers? A. Yes, sir, that is right.

Q. Did you have any discussion with Edward Weinheimer about his labor affiliation?

The Court: Now, one moment before we leave that subject. Is the brother here?

The Witness: No, sir.

The Court: You do not see him here?

The Witness: Not this particular brother, no, sir.

The Court: All right. That is all I want to know.

Q. Did you have any discussion with Edward Weinheimer about his brother's union status?

Mr. Boudin: Objected to.

The Court: Overruled.

Mr. Boudin: Exception.

Q. Will you answer the question? A. He had no 8132
union status.

Mr. Boudin: One moment. I move to strike it out. I understood the question to call for yes or no.

The Court: Yes, strike it out. Read the question.

(Question read.

Q. Just yes or no. A. Yes.

Q. What did you say to Ed Weinheimer about that?

Mr. Boudin: That is objected to.

The Court: Well, what was the conversation?

Q. What was the conversation?

The Court: You can have your objection to that, if you like. 8133

Mr. Boudin: Same objection.

The Court: Overruled.

Mr. Boudin: Exception.

A. Well, we discussed whether he belonged to the union or not. Ed told me he did not, but he needed a helper on the truck to watch things and so forth and so on, and he said that his brother was going to go to work."

30. The Court, over the objection and exception of counsel for the defendants, admitted the following testimony which was of an extremely prejudicial nature and clearly incompetent:

"Q. Did you have any other conversations during your New York employment with Brookline, any other conversations with Ed Weinheimer about supplying additional drivers for your trucks?

Mr. Boudin: Objected to.
The Court: Overruled.
Mr. Boudin: Exception.
The Court: Yes or no.

8135

A. Yes.

The Court: When?
The Witness: At a time that we needed a road driver.

Q. What was that conversation?

Mr. Boudin: Objected to.
Mr. Murray: I will object to that.
The Court: Well, you will have to fix a date. I want to know whether it was after the indictment was filed.

* * * * * *

Q. What was that conversation?

8136

Mr. Boudin: Objected to.
The Court: I will allow it.
Mr. Boudin: Exception.

* * * * * *

Q. Well, did anybody come to your place of business? A. He brought a fellow.

Q. What was the name of the man he brought? A. I don't know his name. We knew him by 'Yellow,' that's all.

Q. Well, did you have any conversation with Edward Weinheimer when he brought the man? A. Weinheimer said, 'This is the man that is going to drive the New Haven truck.'

By Mr. Ennis.

Q. What else did he say? A. He said he needed a job; he had just got out of jail and he wanted to help him.

Q. What did you say? A. That was another case of where Mr. Lovell——

Q. What did you say to him? A. I referred him to Mr. Lovell.

Q. With respect to Lovell's employment, did you discuss with Ed Weinheimer his union status? 8138

Mr. Boudin: Objected to.

The Court: Sustained.

Q. Did you talk to Ed Weinheimer about whether or not Yellow was a member of Local 807?

Mr. Boudin: Objected to.

The Court: He may answer yes or no.

A. Yes.

Q. What was that conversation?

Mr. Boudin: Objected to.

The Court: Overruled.

Mr. Boudin: Exception. 8139

A. I asked him if this fellow Yellow could qualify as a union member in accordance with our contract, and he said, 'No, but it won't make any difference.'

Mr. Boudin: I move to strike out that answer, if your Honor please.

The Court: Denied.

Mr. Boudin: Exception.

Q. Did Yellow then go to work? A. Yes, sir."

31. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following testimony which in nowise tended to establish the commission of the crimes charged in the indictment, and which was highly prejudicial:

"Q. At the end of his first week did you have any discussion with him about his wages? A. Yes, sir.

Q. What was that conversation?

Mr. Boudin: Objected to.

The Court: What is the materiality of that?

Mr. Ennis: If the Court please, I am trying to bring out through the witness' testimony the statements that the defendant made about the payments he required from his company.

8141

Mr. Boudin: That would be immaterial, if your Honor please.

Mr. Ennis: If the Court please, it seems to me the whole substance of the case is the manner in which payments were sought and obtained from these companies.

Mr. Boudin: Not unless there was a conspiracy.

The Court: Well, he says he had a conversation with Weinheimer and agreed to pay him $42.50 a week and no overtime. Now, what is there beyond that?

Mr. Ennis: Well, there is a great deal.

8142

The Court: Well, what is the materiality of it? That is what I am trying to get at.

Mr. Ennis: Well, the materiality is, your Honor, that Weinheimer—it is hard for me to tell you without bringing out the testimony—that additional moneys were sought and obtained——

The Court: At that time?

Mr. Ennis: At that time.

The Court: When the $42.50 was agreed upon?

Mr. Ennis: Yes, at the end of the first week, at the first payday, and I wanted to bring that out, if I might, your Honor.

The Court: Well, put your question and let us see what it is.

Mr. Boudin: If your Honor please, I do not see how a breach by Weinheimer of his agreement as to wages would either tend to prove any conspiracy or would be material even if a conspiracy had been proved. Surely that was not part of the conspiracy and could not have been in furtherance of it. There is no such conspiracy charged in the indictment, as I understand it.

8144

The Court: I will allow it.

Mr. Boudin: Exception.

Q. What was that conversation, Mr. Goddard? A. The conversation was that he wanted, as he said, every God damned dime that was coming to him and every man on the job.

Q. What did you pay him? A. After a three-hour discussion, $56.50 and overtime. I think his first week's pay, if memory serves me right, was $76-and-some cents."

32. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following testimony which tended to prejudice the rights of the defendants and to deprive them of a fair trial: 8145

"Q. What was that conversation?

Mr. Boudin: Objected to.

The Court: One moment.

The Witness: Yes, 48th Street, I beg your pardon.

8146 *Assignment of Errors.*

Q. What was that conversation?

Mr. Boudin: That is objected to.

The Court: Overruled.

Mr. Boudin: Exception.

A. The conversation was for the mishandling of freight.

Mr. Maguire: I move that that be stricken out.

The Court: Strike it out.

Q. Will you just state what you said to Ed Weinheimer and what he said? A. I asked him to be more careful in the way he handled the merchandise that
8147 we were responsible for, even while he was unloading it and had got a clear receipt from the dock boss.

Q. Do you know what the merchandise was on that occasion? A. Yes; I believe they were either parts for oil pumps that were going to South America or watch parts, I am not sure.

The Court: Parts for oil pumps or what?

The Witness: Watch parts.

Q. What did Ed Weinheimer say?

Mr. Murray: I object, if your Honor please. It is a matter outside the issues of this indictment.

The Court: I will allow it.

Mr. Murray: Exception.

8148

Q. What did Ed Weinheimer say? A. He told me to mind my own business and he would do as he God damned pleases with the freight."

33. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following conversation which was had between Austin Furey and

the witness concerning an act of Weinheimer, and which was clearly hearsay:

"The Witness: I said to Austin Furey that Weinheimer and his helper should have delivered that merchandise upstairs; that we lost a grade A account because of the actions of Weinheimer in that particular delivery. I further said to Furey that the man in charge of Liberty Mutual in Newark was an old sort of man and they left him with the cases on the sidewalk to do anything he pleased with them, but they wouldn't make the delivery upstairs.

Q. What did Furey say? 8150

Mr. Boudin: I move to strike out the answer.
The Court: Denied.
Mr. Boudin: Exception."

34. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following testimony which was of an extremely prejudicial nature and which tended to deprive the defendants of a fair trial:

"Q. And you went down and saw Furey? A. Yes.
Q. What was the conversation?

Mr. Boudin: Objected to.
The Court: Allowed.
Mr. Boudin: Exception. 8151

A. I said to Furey that my job was tied up. He said he knew it. And I wanted to know what he intended to do about it, and he said 'nothing.'

Q. In this conversation did you discuss with Furey your right to employ Brown?

Mr. Boudin: Objected to as calling for a conclusion.
The Court: Sustained.

Q. Did you talk to Furey about your putting Brown to work? A. Yes, sir.

Q. What did you say?

Mr. Boudin: Objected to.

The Court: Overruled.

Mr. Boudin: Exception.

A. I said if Local 807 and its officers had not discriminated between the difference between a black man and a white man due to the fact that his union book was paid up——

Q. Whose union book? A. Brown's union book was
8153 paid up a month in advance.

Q. Was he a colored man? A. Yes.

Mr. Boudin: I move to strike out the answer in so far as already given.

The Court: Denied.

Mr. Boudin: Exception.

Q. Proceed. A. (Continuing) That it was not my responsibility to discriminate as to the men that he chose as members of his organization.

Q. What did he say? A. He said that I had no right to hire that black bastard, and I never would hire a nigger on that job, and if I did he would tie me up forever and a day.

Mr. Boudin: If your Honor please, I move to
8154 strike out that answer.

The Court: Denied.

Mr. Boudin: Exception.

Q. Did he say anything else about Brown? A. Yes.

Q. What did he say? A. He said he knew he got a beating and that it was too God damned bad he didn't get murdered.

Q. Did Furey say anything to you in that conversation about you choosing your 807 men to work your trucks? A. Yes, sir.

Q. What did he say?

Mr. Boudin: The same objection.
The Court: Overruled.
Mr. Boudin: Exception.

A. He said if I had needed a man I should have gone to Weinheimer and he would have got the man; that Weinheimer was to appoint the men for that job, and I was to be satisfied with them men."

8156

35. The Court, over the objection and exception of counsel for the defendants, erroneously admitted testimony concerning an altercation between one Brown and Weinheimer, despite the fact that this altercation had no tendency whatever to establish the acts set forth in the indictment. This testimony tended to deprive the defendants of a fair and impartial trial:

"Q. Now, leaving this conversation and going back to 10.30 in the morning when you told Brown to go into the body of the truck, what did you see happen on that truck?

Mr. Boudin: Objected to.
The Court: Overruled.
Mr. Boudin: Exception.

8157

A. The next thing I saw was Brown with his hand bleeding.

Q. Where was he standing? A. He had just come off the truck into the warehouse with a two-wheel truckload of this small canned goods, wheeled it against the wall ready to stack up.

Q. Then what happened? A. Weinheimer came out of the body with a hook in his hand.

Q. What kind of a hook? A. A loading hook.

Q. What is that? A. A loading hook is an instrument that we use for leverage on heavy merchandise.

Q. What is it made of? A. A piece of steel shaped like a question mark with a wooden handle.

Q. Has it got a point? A. Definitely.

Q. And he was carrying this loading hook? A. Yes, sir.

Q. What did he say?

Mr. Boudin: Same objection.

8159 The Court: Overruled.

Mr. Boudin: Exception.

Q. Or what was said? A. He said to Brown, 'You black bastard, you can't work on this job or any other job that I work on.'

Q. What did he say? A. Brown said to him, 'If you say that again you are going to get hurt.' And Weinheimer said it again and Brown hit Weinheimer.

Q. Then what happened? A. Brown took the hook away from Weinheimer, and, as I remember it, he ran to the bench.

Q. Who ran to the bench? A. Weinheimer.

Q. What bench? A. We had a bench in the place where we used to——.

8160 Q. A work bench? A. Just a small work bench that the mechanics worked on.

Q. Yes? A. And grabbed a piece of pipe and came at Brown. Brown took the pipe away from him and hit him again and knocked him down.

Q. Yes? Then what happened? A. Weinheimer took his hat and coat and walked out of the building and into a car across the street and drove away.

Q. Did he say anything before he drove away in your presence? Did he say anything to Brown?

Mr. Boudin: Objected to.

The Court: Yes or no.

A. Yes.

Q. What did he say?

Mr. Boudin: Objected to.

The Court: Overruled.

Mr. Boudin: Exception.

A. He said, 'You'll pay for this, you black bastard, with interest.'

Q. Then what happened? A. Weinheimer drove 8162
away and Brown and I continued working.

Q. What did you do? What work were you doing? A. Nothing. I was just standing inside the body where Brown was stacking this hand truck with merchandise.

Q. You were standing in the truck? A. Yes, It was new to him.

Q. Yes. Then what happened? A. The next thing, there was two carloads of men——.

Q. How long was that after Ed Weinheimer left? A. A period of five or ten minutes.

Q. Two carloads of men what? A. Came into the building and set upon Brown.

Mr. Murray: I move to strike it out, if your 8163
Honor please.

The Court: Denied.

Mr. Murray: Exception.

Q. Did you recognize any of those men? A. Yes, sir.

Q. How many men were there? A. About eight."

36. The Court, over the objection and exception of counsel for the defendants, erroneously admitted testimony concerning an assault upon one Brown by Weinheimer and numerous other men. This testimony did not tend to establish the issues in the trial, and was extremely prejudicial:

"The Court: Well, what did you see anybody do in the presence of Weinheimer?

The Witness: I saw these men beat Brown up.

Q. What di' they hit him with? A. A piece of a a plank, chock.

Q. What is a chock? A. A chock is a solid piece of 8165 wood that is bound by iron with a chain on it that we throw underneath the wheel to hold it in place.

Q. To hold what in place, the truck? A. That is right. If you are on an incline, to break the momentum, you throw a chock underneath the wheel.

Q. Did you see someone hit Brown with a chock? A. Yes.

Q. Do you know which one hit him with a chock? A. No, sir, I don't.

Q. Do you know which one hit him with the plank? A. No, sir.

Q. Did each one of the eight men hit him? A. Yes, sir.

Q. Well, what else did they hit him with? A. There 8166 was various things around the building, small pieces of pipe, a monkeywrench.

Q. Monkeywrench? A. Yes. Hands, their feet.

Q. Did they kick him? A. Definitely.

* * * * * * *

Q. How long did they beat Brown? A. A few minutes.

Q. A few minutes? A. Yes.

Q. How long is that? A. I would say five minutes; five to ten minutes.

Q. Did you see any blood? A. Lots of it.

Q. Whose? A. Brown's.

Q. How did he look? A. Horrible.

Q. Was his face bleeding? A. Yes, sir."

37. The harm to the defendants as above stated, was aggravated by the admission of the following prejudicial and incompetent testimony:

"Q. Well, let us go back to that talk with Furey that afternoon. When you spoke to Furey did he say anything to you concerning his knowledge of this 8168
incident before you spoke to him? A. Yes, sir.

Q. What did he say? A. He said he was at Liberty Forwarding at 25th Street.

Q. 25th and where? A. Tenth Avenue.

Q. Yes? A. He knew what was going; he sent the men down there.

Q. He said that he sent the men down there? A. Yes, sir.

Q. What else did he say? A. He said it was too God damn bad that black bastard didn't get murdered.

Q. Did Furey say anything about your job going back to work? A. Yes, sir.

Q. What did he say? A. He said, 'Put Weinheimer back to work; pay the nigger; don't let him work; if 8169
you do let him work or any other colored man,' he said, 'I will tie you up forever and a day.'"

38. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following line of testimony with regard to the alleged activities of the defendant Edward Weinheimer after the alleged serv-

ice upon the witness of a notice to appear before the Grand Jury:

"Q. Mr. Goddard, were you served with a Grand Jury subpoena to appear before the Grand Jury in this building at any time in 1938? A. Yes, sir.

Q. Can you remember the month? A. I think it was March.

Q. Did you make several appearances in this building for that purpose? A. Yes.

Q. Do you recall one such occasion, a day upon which you were accompanied by Mr. Klein? A. Yes, sir.

8171 Q. Was Mr. Klein with you in this building? A. No, sir.

Q. Did you meet Mr. Klein after you left this building? A. Yes, sir.

Q. When you came to this building in answer to that subpoena, did you discuss the subpoena? Did you say anything about it before you came here in the presence of Edward Weinheimer, the defendant?

Mr. Maguire: Objected to.

The Court: Objection overruled.

Mr. Maguire: Exception.

The Court: He may say yes or no.

A. Yes.

8172 *By the Court.*

Q. Where was that conversation? A. In the office of the Brookline Trucking Company, sir.

Q. And who was present? A. My assistant——

Q. Name? A. Arthur Feldman.

Q. Who else? A. Weinheimer.

Q. Which Weinheimer? A. Edward Weinheimer.

Q. Who else? A. Mr. Lovell.

By Mr. Ennis.

Q. What was said in that conversation?

Mr. Boudin: Objected to.

Mr. Murray: I object, if your Honor please, on the ground that it is immaterial, irrelevant, outside the issues and calling for testimony that is prejudicial.

The Court: I will take the testimony as against the defendant Edward Weinheimer if it discloses anything he said or anything he did material to the issues in this case; and I will say now to the jury in that connection, as I have indicated before, it is 8174
for them upon the facts in this case to determine whether there was a conspiracy involving any of the defendants in this case. If you find there was a conspiracy it will be for you to determine when the conspiracy began and when the conspiracy ended and what defendants were in the conspiracy at the time that it ended. It will be for you to say whether the conspiracy was in effect, if you find there was one, on the date of the conversation which the witness has been called upon to relate; and it will be for you to determine whether if you find there was a conspiracy in existence at that time, anything which may have been said by the defendant Weinheimer was in furtherance of that conspiracy. Otherwise the testimony may be received and considered 8175
only by you as an admission of Weinheimer against himself and himself alone.

Mr. Murray: The defendants respectfully except to your Honor's ruling and instructions on the law.

The Court: Well, if there is any instruction I have omitted which counsel for the defendants feel should be supplemented. I will give them an opportunity to submit any supplemental suggested charge.

Mr. Murray: If your Honor please, the basis of my objection is not because your Honor's charge is not precise, but because the defendants' contentions are that testimony as to these isolated acts is inadmissible.

The Court: Very well.

Mr. Duff: Will your Honor note for the record the objection of the defendant Cornelius Noonan as well?

The Court: On the same grounds or other grounds?

Mr. Duff: On the same grounds as set forth by
8177 Mr. Murray.

The Court: So noted. And the exception will inure to the benefit as well of any other defendant.

Mr. Boudin: I take it all the other defendants have exceptions?

The Court: Yes.

By Mr. Ennis.

Q. Mr. Goddard, will you state as well as you remember the time of this conversation in your office at Brookline? A. I believe it was the afternoon of the day that I got the subpoena from the United States Marshal in this building.

Q. What month was that? A. I am pretty sure it was March; I am not certain.

8178

The Court: What year?

The Witness: 1938, sir.

Q. What was said at that conversation?

Mr. Murray: I object to it, if your Honor please. Perhaps your Honor could note an objection and exception to this line without——

The Court: Well, the objection heretofore made will stand, and the objection will continue to this

question with the same force and effect as if it were at length reiterated. The same ruling and exception to all of the defendants.

Mr. Murray: Without the necessity of constantly interposing objections and exceptions?

The Court: Yes.

Mr. Boudin: In other words, as I understand it, the objections and exceptions to this line of testimony——

The Court: That is the idea.

Q. Will you state, Mr. Goddard, what was said in that conversation? A. I believe I said that I had to make an appearance in the Federal Building in re- 8180
gard to the investigation.

Mr. Murray: I move to strike out the answer, if your Honor please, as too indefinite and speculative.

The Court: Denied.

Mr. Murray: Exception.

Q. Was anything else said? A. That is all, sir.

Q. Did you state what investigation? A. I don't believe so.

Q. Did anyone else say anything? A. No, sir.

The Court: Did Weinheimer say anything?

The Witness: No, sir.

Q. Did you again see Weinheimer that same day? A. No, sir. 8181

Q. Did you again shortly thereafter——

The Court: Well, when did you next see him, if at all?

The Witness: I believe it was the following day, sir.

Q. The following day? A. Yes.

Q. Who was present at that time? A. Weinheimer and his brother John, Morton, Joe Gillan, and perhaps a couple of others.

Q. Was anyone with you? A. Yes, sir.

Q. Who was with you? A. Harris Klein.

Q. Were Morton and Gillan drivers for Brookline? A. Yes, sir.

Q. Were these persons you have mentioned the only persons present? A. No, sir; there were some others, but I did not know them.

Q. How many were there, about, altogether? A. About six, I guess.

8183 Q. Were was this meeting? A. On 20th Street, near Tenth Avenue.

Q. What was said at that meeting in the presence of the defendants Edward and John Weinheimer? A. Harris Klein said to the drivers of the Brookline Trucking Company, 'I am here to make service upon you of these summonses.'

Mr. Maguire: May we ask that the witness speak louder?

The Court: Yes. You will have to speak louder. I can hardly hear what you say myself.

A. (Continued) He said, 'I'm here to make service upon you of these three summonses.'

8184 Q. Then what was said? A. Weinheimer said to Klein——

Q. Which Weinheimer? A. Edward Weinheimer.

Q. Yes? A. That he had better keep his nose out of his business.

Q. Then what was said? A. John Weinheimer told me to keep my mouth shut 'Or this is what you'll get.'

Q. Then what was done? A. I turned around and walked away from them to go across the street into the office, and John Weinheimer assaulted me.

Q. What did he do? A. He hit me several times on the back of the head, knocked me down; kicked me a couple of times.

Q. Where did you fall? A. I fell between two automobiles.

Q. On the street? A. Yes.

Q. On your face? A. Yes.

Q. Was there any blood on you? A. My face was scratched. My face hit a bumperette that was on a bumper as I fell forward.

Q. And scraped your face? A. Yes.

Q. After you had fallen on the street were you struck again? A. No, sir. 8186

Q. Did Weinheimer only hit you with his hands? A. Yes, sir.

Q. I thought you stated that you were kicked a couple of times. A. That was while I was lying there on the street.

Q. While you were lying on the street John Weinheimer kicked you? A. Yes.

Q. Was there anything further said in that conversation? A. No, sir."

39. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following testimony:

"Q. What was that conversation? 8187

Mr. Maguire: Objected to.

The Court: Overruled.

Mr. Maguire: Exception.

A. He said that Austy and Willie owned the Pump. If I wanted them bad enough I could probably——

Mr. Boudin: I move to strike out the answer.

Mr. Murray: He has not finished.

The Court: Let him finish his answer.

Q. Will you continue your answer? A. He said that Austy and Willie owned the Pump. If I wanted them bad enough I could probably find them there; that was where the regular guys hung out; you had to spend a few dollars in his business. He also asked me if there was any truth——

Mr. Boudin: If your Honor please, I thought that the witness stopped.

The Court: He is testifying to the conversation that he says he had.

Mr. Boudin: All right.

The Court: Proceed.

8189 A. (Continued) He also asked me if there was any truth to the story that Mr. Lovell had offered Austy and Willie a certain sum of money to get rid of him, and I told him no, that I had no such knowledge.

Mr. Boudin: Is that the end of that?

Q. Do you recall anything else in that conversation?

The Court: Just a moment.

Mr. Boudin: If your Honor please, I move to strike out the answer as already given.

The Court: Denied.

Mr. Boudin: Exception.

A. No, sir.

8190 Q. Mr. Goddard, during this period of your relations with the defendant Edward Weinheimer, did you ever have any discussion with him about the relationship between Local 807 and your business and any law enforcement agencies? A. Yes, sir.

Q. Can you place the time and the place of that conversation or of one of such conversations? A. I would say it was some time in the early part of April, 1938.

Q. Where was it held? A. In our office in 20th Street.

Q. What was that conversation?

Mr. Boudin: Objected to.

The Court: Overruled.

Mr. Boudin: Exception.

A. He said, 'I understand Uncle Sam has swooped down on Local 807 and grabbed all the records. I hope they have a good time with them. There is nothing they can do. Local 807 has got the biggest membership of any union of its type in the country; they have got plenty of money; we could tip almost every 8192
truck over in New York City in forty-eight hours and show them the greatest mass demonstration of unionism that has ever been shown anywhere in this country.'

Mr. Boudin: If your Honor please, I move to strike out the answer.

The Court: Denied.

Mr. Boudin: Exception."

40. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following testimony:

Q. Excuse me. Was the other man alone? A. Yes, he came in by himself. 8193

Q. Yes?

The Court: What was his name?

The Witness: McGavish.

Q. Now, tell us what was said after that.

Mr. Boudin: I object to that as immaterial, irrelevant and incompetent.

The Court: Overruled.

Mr. Boudin: Exception.

A. They had quite an argument and Cahill told me that I had to hire him; that he is the one that stopped the job, and, therefore, I had to hire him; he would be the steward on it, and tell me who to hire; and he and this Irishman McGavish, they got into a pretty good argument, and Cahill called him an under-the-hat son-of-a-bitch, and said that they had trouble with him before and would have more trouble, and he would have to get off of his job. And McGavish said he knew some delegate, Willie Campbell, I believe it was; and
8195 he said he was a friend of his, and he would see him and straighten it up, and I would not need to worry no more about it; and he worked the next day——

Mr. Boudin: One moment before the witness proceeds to something else. I move to strike out the conversation.

The Court: Motion denied.

Mr. Boudin: Exception.

11. The Court, over the objection and exception of counsel for the defendants, erroneously admitted telephone conversations had between the witness and unknown men:

"Q. Now, had you received any telephone calls be-
8196 fore that?

Mr. Boudin: I object to that as immaterial.

The Court: Overruled.

Mr. Boudin: Exception.

A. Yes, we had received a number of telephone calls when we had our trucks held up in New York.

Q. Had you received any such calls before the time that you signed that paper which is Government's Exhibit 15? A. Yes, sir.

Q. Approximately how many such telephone calls had you received up to that time?

Mr. Boudin: Objected to.

A. Well, I could not tell you exactly. Perhaps as many as——

The Court: Overruled.

Mr. Boudin: Exception.

Q. Do you know with whom you had any such telephone conversations?

Mr. Boudin: Objected to as calling for a conclusion of the witness. 8198

The Court: Well, he can say whom he had them with, if he knows.

A. No, I can't remember. Before we signed the contract, I can't remember the names.

Q. Who paid for those telephone calls? A. We paid for them. The B. & B. Transportation Company paid for them.

Mr. Boudin: Objected to.

The Court: Overruled.

Mr. Boudin: Exception.

Mr. Marks: May we have the answer read?

The Court: Yes.

(Answer read.)

8199

Q. Now, did you ever have a talk with Cahill later on about that? A. Yes.

Q. What was said about that?

Mr. Boudin: That is objected to.

The Court: Overruled.

Mr. Boidin: Exception.

A. Well, I talked to him about them, and he said that they had paid for one or two calls. He didn't say

who 'they' was, and they would not call so much from then on because it was costing us too much."

42. The Court, over the objection and exception of counsel for the defendants, erroneously admitted a conversation had between the witness and another trucker:

"Q. Was anything said about his trucks in New York City? A. Yes, they told him his trucks could not come in until he signed a contract.

Mr. Boudin: I object to that as immaterial.

The Court: Overruled.

8201 Mr. Marks: May we have the answer read?

The Court: Yes, if the stenographer has it, I don't know.

(Answer read.)

Q. Now, what else was said?

Mr. Boudin: Same objection.

The Court: Overruled.

Mr. Boudin: Exception.

A. Then Mr. Spackman wanted to see their union books, and Cahill showed him his, and Murray said it wasn't necessary, and he showed him some letter or something of identification.

Q. But Murray did not show him a union book? A.

8202 No, Murray did not show him a union book.

Q. Now, do you remember any further discussion with Mr. Spackman in your presence? A. No. After we talked it over and they gave him the gist of our arrangement, after we had eaten supper—we all ate supper together—I took them home; they were tired, and Mr. Spackman left.

Q. Now, do you remember testifying before the Grand Jury in this case?

Mr. Boudin: Objected to as immaterial.

The Court: Overruled.

Mr. Boudin: Exception.

A. Yes, sir."

43. The Court, despite the request of counsel for the defendants, refused to strike out many gratuitous comments of the witness, of which the following is an example:

"Q. What was there to straighten out about these checks? A. Well, they had for protection against racketeering——

Mr. Boudin: I move to strike it out. 8201

The Court: Motion denied.

Mr. Boudin: I take an exception.

The Court: Now let the witness finish his answer if he hasn't already done so.

Mr. Boudin: I respectfully except to your Honor's directing the witness to proceed with the answer.

The Court: You may note your exception.

(Question read.)

The Witness: Well, as I said, the checks had 'For protection against racketeering' on them. As I said yesterday, Mr. Shipley had sent some telegrams. That stirred up some trouble with the union. Our shipments were stopped right away.

Mr. Boudin: I move to strike out all of that. 8205

The Court: Denied.

Mr. Boudin: Exception."

44. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following testimony without any prior proof of the existence of the alleged conspiracy:

8206 *Assignment of Errors.*

"Q. What did McCaffrey say to you and what did you say to him in that telephone conversation?

Mr. Boudin: Objected to, if your Honor please.

The Court: I will allow it subject to the observation that the jury will disregard it entirely unless, one, they are satisfied by the required measure of proof in this case that a conspiracy existed and is established; two, that this conversation was had in furtherance of that conspiracy, and three, only as to those defendants, if any, whom the jury find, if they do, to have been in the conspiracy, and that the conversation was had during the existence of
8207 any conspiracy that you find to exist.

Mr. Boudin: I respectfully except to the allowance of the question.

The Court: Proceed.

The Witness: The question?

Mr. Marks: May we have the last question read?

The Court: Yes, repeat it.

Q. (Read.) A. Well, sir, McCaffrey told me that they had sent a man down——

Q. Told you that? A. Told me that they had sent a man down to Uniontown and that the trip was without result, and what were we going to do? I told him that we wanted to operate but I could not
8208 operate under the conditions as explained to me by the man he had down here, DeMato; and that conversation was left open without anything at the end coming from it, because he said he would send a contract down and for me to sign it.

Q. Go ahead. Have you told us all of the conversation that you can remember? A. Well, sir, the contract was sent down and I——

Q. No, no.

Mr. Boudin: I object to that.

The Court: Yes, strike it out.

By the Court.

Q. Have you told us all the conversation you now remember that you had with McCaffrey over the telephone on that occasion? A. At that time, that is about the extent of the conversation; I reduced it to about the essentials, and I can't remember anything further at this point about that conversation.

By Mr. Marks.

Q. Can you remember whether anything was said in that conversation about your talks? A. In that particular conversation, I don't think so. 8210

Q. Did you have any further telephone conversation with McCaffrey? A. Oh, yes, many of them.

Q. Well, did you see McCaffrey? A. Not up to that time.

Q. After that? A. After that, yes, sir.

Q. How long after that telephone conversation which you described to us? A. I saw McCaffrey and Cahill at Uniontown in the early part of March, 1938.

Q. Now, between the time that you first saw him and the telephone conversation which you have just described, did you have any further telephone conversations with him? A. Yes. You are asking me about a conversation, but something happened in between there. There was a contract— 8211

Mr. Boudin: One moment.

The Court: No, no.

A. (Continued) I had other conversations with him, yes, sir.

Q. How many?

The Court: The question was whether you had any other conversation with McCaffrey between the first telephone conversation you have referred to and the time that he came to Uniontown with Cahill.

The Witness: I did.

Q. How many? A. At least one that I can remember. Possibly more, but at least one, one particular one.

Q. Now, will you tell us what was said in that conversation? A. Yes, sir——

8213 Mr. Boudin: Objected to, if your Honor please.

The Court: What?

Mr. Boudin: I say we object to that. I take it there is the same ruling?

The Court: Yes.

Mr. Boudin: I take an exception.

The Court: Yes; it is received under similar conditions.

Mr. Marks: May we have the last question?

The Court: Yes.

Q. (Read.) A. The next conversation, McCaffrey called at my office at Uniontown in the morning, early. I would say about 7 o'clock, and he was very short and specific in his statement. He said, 'You have
8214 sent your foreman down here, Mr. Deal, and we don't want any more of Deal and we don't want any more of you.' That is what I can remember of that conversation."

45. The Court, over the objection and exception of counsel for the defendants, erroneously admitted into evidence Government's Exhibit 19 for Identification and testimony with regard thereto:

"Q. Was there any conversation about this slip of paper, Government's Exhibit 19? A. Yes, sir.

Q. Tell us about that, please.

Mr. Boudin: That is objected to on the same ground.

The Court: Overruled.

A. The conversation surrounding that slip was that these trucks in arriving at New York must have a place to report and inasmuch as Eastern States Transportation Company didn't have a terminal, this Mr. J. W. Murray, otherwise Joe McCaffrey, had arranged to have us call this number at Canal 6-9444, Laight and West Streets, at any time on arrival of 8216
the truck from 8 A. M. to 5 P. M.

Q. Do you know that telephone number on this? A. Yes, I do. I found out since that it is the Beach Transportation Company number; at least it is the location of the Beach Transportation Company number, at that point, Laight and West Streets.

Q. Now, what else did he say about it? A. Well, the truck drivers were to report to that number and then await further instructions from J. W. Murray as to what they were to do. In other words, if the trucks would report from Jersey City where he wanted them to stay, they would stay at Jersey City until he got ready to handle them. In other words, he didn't want the trucks—he said he didn't want the 8217
trucks running wild throughout New York because of several reasons. The first is, they wanted to cover the trucks; secondly, he didn't want some of the other members of the union to get these trucks. He wanted them. He made that very plain."

46. The Court, over the objection and exception of counsel for the defendants, erroneously admitted into evidence

Government's Exhibits for Identification 24, 25, 26, 27, 28, 29, 30 and 33.

47. The Court erred in denying the motion, made during the course of the trial, to strike out the entire testimony of the witness Pritts:

"Mr. Murray: If your Honor please, I move to strike out the entire testimony of the witness on the ground that it is not relevant.

The Court: I will deny your motion without prejudice to a renewal.

Mr. Murray: Exception, if your Honor please."

8219

48. The Court erred in denying the motion, made during the course of the trial, to strike out the entire testimony of the witness Portenfield:

"Mr. Boudin: I move to strike out the testimony of this witness on the ground that it has no possible bearing on the crime charged in the indictment, or with reference to any of the defendants charged with any crime in the indictment.

The Court: Denied.

Mr. Boudin: Exception. Both on the ground that it is impossible to cross-examine a witness like that since he has not identified anybody by a name that could be recognized by anybody."

8220

49. The Court, over the objection and exception of counsel for the defendants, erroneously admitted conversations between the witness Austin and the individual defendants:

"Mr. Boudin: If your Honor please, may it appear that these conversations with individual defendants are taken subject to objection of the defense and

exception and under the limitations already stated by your Honor?

The Court: Yes."

50. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following testimony as to activities and conversations between the witness and an unknown man:

"Q. Do you remember whether before you met Weinheimer for the first time you were stopped by anyone else in New York City? A. Yes.

Q. When? A. Well, in the fall of 1937 was the first time I was ever stopped. 8222

Q. Do you remember the month? A. I can't, no.

Q. Where was it?

Mr. Murray: Now, I object, if your Honor please.

The Court: Denied.

Mr. Murray: Unless it is connected——

The Court: I am going to allow it.

Mr. Murray: Exception.

A. Rockwood Chocolate Company in Brooklyn.

Q. Were you there to pick up a load or to deliver a load? A. Pick up a load.

Q. Had you made any deliveries in the metropolitan area? A. Yes.

Q. The same day? A. The same day.

Q. Now, had any work been done on your truck at the Rockwood Chocolate Company before you were stopped? A. Probably there was fifty bags on that truck. 8223

Q. That is, it was in the process of being loaded? A. Yes.

Q. Who came up? A. I can't recall his name. In fact, I don't remember.

Q. One man? A. One man.

Q. Would you know him if you saw him now? A. I don't believe I would.

Q. Did that man show you anything? A. He showed me a union book.

Mr. Boudin: I object to that.

The Court: Overruled. Yes or no.

A. (Continued) Yes.

Mr. Boudin: Exception.

Q. What did he show you?

Mr. Boudin: I object to that.

8225 The Court: Overruled.

Mr. Boudin: Exception.

A. An 807 book.

Q. Did he ask you for anything?

Mr. Murray: I object, if your Honor please.

Mr. Boudin: I object to that.

The Court: I will allow it. Yes or no.

Mr. Boudin: Exception.

A. Yes.

Q. What did he ask you for?

Mr. Boudin: Objected to.

The Court: Overruled.

Mr. Boudin: Exception.

8226

A. Money to pay for loading, $9.42.

Q. Did he mention that amount? A. Yes.

Q. Now, will you tell us the entire conversation you had with that man?

Mr. Boudin: That is objected to, if your Honor please.

The Court: Overruled.

Mr. Boudin: Exception.

A. He explained to me that I could not load there until I put a union man on the truck.

Q. What did you say? A. I asked him why. I had loaded there on the average of once every two weeks and never had any trouble before. Well, he said it was signed up here. He said, 'You can't load here without a union man.' And rather than have an argument I went to the shipping clerk of Rockwood.

By the Court.

Q. Did you have a talk with him? A. Conversation with the union man——

Q. No, with the shipping clerk? A. Yes. 8228

Q. Don't tell us what it was. After that you did not have any further talk with the person you had previously spoken with? A. After I came back from the shipping clerk, I did.

Q. Did you? A. Yes.

By Mr. Marks.

Q. What was that conversation then?

Mr. Boudin: Same objection.

The Court: Overruled.

Mr. Boudin: Exception.

A. With the 807 man, you mean?

Q. Yes. A. He asked me how I made out. I said, 'The shipping clerk will be out and fix it up. It is 8229 all right for you to load.'

Q. Did he load? A. He did.

Q. How long did it take? A. I would say forty-five minutes.

Q. And was he paid anything? A. I didn't see him paid, but the shipping clerk did pay him.

The Court: No, that is all. He did not see him paid.

8230 *Assignment of Errors.*

Q. In the conversation which you had with this man about the shipping clerk, what did you say? A. That the shipping clerk will take care of him.

Mr. Cahill: If your Honor please, I respectfully call attention to the fact that it has reached the magic hour of a quarter to twelve.

Mr. Boudin: If your Honor please, before your Honor takes a recess, I would like to move to strike out all testimony of this witness with reference to the occurrences and conversations with the unknown man. When the question was first asked, I assumed that was a further conversation with Weinheimer
8231 that was being asked for.

The Court: Well, I did not have that impression.

Mr. Boudin: Well, that was my impression.

The Court: Motion denied.

Mr. Boudin: Exception."

51. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following conversation between the witness and the Federal Agent:

"Q. What was the conversation in the office, do you remember?

Mr. Boudin: I object to that.

8232 The Court: I will take it as against the defendant Waskiewicz.

Mr. Boudin: Exception.

Q. Do you remember the conversation? A. Well, just talked in there, and he told the people in the office that I did not have a city man on the truck, that I was supposed to have one.

The Court: Who said that?

The Witness: Waskiewicz.

The Court: All right.

A. (Continued) He said I did not have a city man on the truck and they told him I did not need one; so they called up somebody, I don't know who, and then they told me to go back and unload the truck, and they told him not to interfere with me while I was unloading that truck, he or any other 807 man; that if he did he would get himself in trouble. So I goes on back and unloads my truck.

Q. Did they say anything else to Waskiewicz before you left? 8234

Mr. Boudin: That is objected to.

The Court: I will allow that.

Mr. Boudin: Exception.

A. Well, they told him not to interfere with me while——

Mr. Murray: Just a minute. Your Honor, might I state a further basis of objection?

The Court: Yes.

Mr. Murray: I object on the ground that it does not appear here that any F. B. I. man had any authority to direct any member of Local 807 how they should conduct themselves in the premises; that it is not binding on the defendants. 8235

The Court: I am not taking it as any evidence of the fact that any F. B. I. man said anything, let alone had any authority to say anything; but I am merely taking it as some evidence of the fact that somebody told the defendant Waskiewicz which may or may not have had any reasonable effect upon the course that he pursued.

Mr. Murray: If your Honor please, I respectfully except."

52. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following conversations between the witness and unknown men:

"Q. How many people did you see there? A. Three of them.

Q. Do you know now who any of them were? A. No, I do not.

Q. Did any of those men show you anything?

8237

Mr. Boudin: I object to that.

The Court: Overruled.

Mr. Boudin: Exception.

A. Did they show me anything?

Q. Yes. A. Yes, they showed me their book.

Mr. Boudin: One moment. I move to strike out everything after the answer 'Yes.'

The Court: Strike it out.

Q. What did they show you?

Mr. Boudin: That is objected to.

The Court: Overruled.

Mr. Boudin: Exception.

8238

Q. What did they show you, Mr. Betts? A. They showed me their book, union book.

Q. Did you look at it? A. Yes.

Q. Did you see what it was? A. Yes, I seen it was a union book.

Q. Did you see anything on it? A. Yes——

Mr. Boudin: That is objected to.

The Court: Overruled.

Mr. Boudin: That is objected to as attempting to get in evidence contents of a document that is not in evidence.

The Court: I have ruled.

Mr. Boudin: Exception.

Q. What did you see on the book?

Mr. Boudin: Same objection.

The Court: Overruled.

Mr. Boudin: Exception.

A. Well, in the book—I looked in the book and I seen that number 807, dues paid up, and that is all I know about the book. 8240

Q. Did you look at the books of each of the men? A. Not all the time I didn't.

Q. I mean this time that we are talking about at Seeman Bros. A. The three of the men?

Q. Yes. A. No, I didn't

Q. How many of the books did you look at? A. Just the one.

Q. Now, did you have a conversation with the three men?

The Court: Did you have a conversation with the man whose book you looked at?

The Witness: Yes.

Q. Will you tell us what the conversation was? 8244

Mr. Boudin: That is objected to.

The Court: Overruled.

Mr. Boudin: Exception.

A. Well, he just wanted to unload my truck and I told him I thought I had a right to unload my own truck, and he did not seem to want me to.

Q. What did he say? A. 'No,' he said, 'you will have to put a union man on here; it is a union house; you will have to put a city man on here, an 807 man.' And I goes in and sees the receiving clerk. He tells me——"

53. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following conversations between the witness and unknown men:

"Q. Do you remember whether the entire load was consigned to Francis H. Leggett? A. Yes, it was.

8243 Q. Did any of the men show you anything?

Mr. Boudin: Objected to.

The Court: Overruled.

Mr. Boudin: Exception.

A. They just showed me their union books.

The Court: Well, did Zellinger show you a book?

The Witness: He did not.

Q. Now, did you have a conversation with those men?

The Court: Now, wait a minute. Somebody showed you a book?

The Witness: That is right.

8244 The Court: Aren't you going to show some circumstances connected with that?

Q. Did you look at the book? A. I did, yes.

Q. What did you see on it?

Mr. Boudin: Objected to.

The Court: Overruled.

Mr. Boudin: Objected to as attempting to put in evidence the contents of a document that is not in evidence.

The Court: Overruled.

Mr. Boudin: Exception.

Q. What did you see in the book? A. I seen it was a union book, had Local 807 inside of the book.

Q. How often have you seen such books or similar books, Mr. Betts? A. Well, only when these union men would show them to me, that was all.

Mr. Boudin: I move to strike out the answer as not responsive.

The Court: Denied.

Mr. Boudin: Exception.

Q. Now, did you have a conversation with any of the men on that occasion at Francis H. Leggett's? 8246
A. I did, yes.

Q. What was the conversation?

Mr. Boudin: That is objected to, if your Honor please.

The Court: Overruled.

Mr. Boudin: Exception.

A. Well, they just wanted to unload my truck; told me I had to have a city man on there; and I said I didn't think so; I thought I had the right to unload my own truck; and they told me if I knew what was best I would put one on."

54. The Court, over the objection and exception of counsel for the defendants, erroneously admitted into evidence Government's Exhibit 37 for Identification. 8247

55. The Court erred in denying the motion made during the course of the trial to strike out the testimony of the witness Betts with regard to the defendant Waskiewicz:

8248 *Assignment of Errors.*

"Mr. Murray: If your Honor please, I now move to strike out the testimony in respect to Waskiewicz on the ground that it is not relevant and does not come within the purview of the allegations in the indictment.

The Court: Denied.

Mr. Murray: Exception."

56. The Court erred in denying the motion made during the course of the trial to strike out the testimony of the witness Betts with regard to the defendant Zollinger:

"Q. Now, outside of seeing Waskiewicz on the occasion that you have named and see Zollinger some time, there is no one else here that you are able to identify, is there? A. There isn't.

Mr. Murray: Your Honor, I move to strike out the testimony relating to Zollinger.

The Court: Denied.

Mr. Murray: On the ground that the date as which the witness says he saw him is uncertain in his mind, and that it is not definite and precise that it was before June 1, 1938.

The Court: Motion denied without prejudice to renewal.

Mr. Murray: Exception. No further questions."

8249

8250 57. The Court, over the objection and exception of counsel for the defendants, erroneously admitted conversations between the witness and unknown men, of which the following is an example:

"Q. What did you see on them?

Mr. Maguire: Objected to.

The Court: Overruled.

Mr. Maguire: Exception.

A. I saw their buttons on their caps with 'Local 807' on the button.

Q. What was the conversation?

Mr. Maguire: Objection, sir.

The Court: Overruled.

Mr. Maguire: Exception.

A. They made the remark that they would see to it that we would not do business in New York unless we did use 807 men——

Q. What did you say? A. (Continuing) That they would break up the equipment, if necessary.

Q. They said that? A. Yes."

8252

58. The Court, over the objection and exception of counsel for the defendants, erroneously admitted conversations between the witness and unknown men, of which the following is an example:

"Q. What did you see on the buttons? A. 'Local 807.'

Q. What was the conversation?

Mr. Maguire: Objected to.

The Court: Overruled.

Mr. Maguire: Exception.

A. We talked in regard to the loading of the wine. It had been picked up by Local 807 men and put on the platform waiting for——

8253

Mr. Maguire: May I ask if that is part of the conversation?

The Court: Was that said in the conversation?

The Witness: Yes.

And I told them I didn't think we should have to pay a Local 807 man to pick the wine up and pay another 807 man to load it on our truck; that it al-

ready involved more than a day's pay and I didn't think—I knew we couldn't afford to pay the price of two men and the pick up of the wine. So they told me if the wine went on that truck a Local 807 man would have to put it on. So after arguing for about 45 minutes about it I agreed to put a Local 807 man on and pay him for a day's work also to load the wine which took about 45 minutes."

59. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following conversation between the witness and unknown men:

8255 "Q. Did the three or four or five men who arrived before Furey say anything to you before he arrived? A. Well, they told me not to unload.

Mr. Maguire: I object to that.

The Court: Overruled.

Mr. Maguire: Exception.

A. (Continued) That they——

The Court: The answer is yes or no. Did they say anything to you?

The Witness: Yes.

The Court: What did they say?

Mr. Maguire: Objection.

The Court: Overruled.

8256 Mr. Maguire: Exception.

The Witness: They said if I go ahead and unload they will collect a day's pay and I will have to pay them and pay Jimmie Martin besides. So then I stopped unloading until Jimmie Martin came back."

60. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following testimony which dealt with the statements and acts

of unknown men, who were not shown to have aided and abetted in the conspiracy:

"Q. Did the man who unloaded the truck say anything? A. He said he was a man from 807.

Mr. Maguire: May I move that that be stricken out?

The Court: Strike it out. The answer is yes or no.

Q. Did he say anything? A. Yes.

Q. Is he the man to whom you paid $9.42? A. Yes.

By Mr. Ennis: 8258

Q. What did he say to you?

Mr. Maguire: Objected to.

The Court: Overruled.

Mr. Maguire: Exception.

Q. What did he say to you? A. He said he was to unload the truck.

Q. What did you say to him? A. I told him I had nothing to do with that, about the unloading the truck; I could not give him my consent to hire the man for that day, so I had to call Mr. Fowser.

Q. You told him that? A. That is right.

Q. Did any of the men with him say anything to you? A. They said they were men from——

8259

Mr. Maguire: No, I move to strike it out.

The Court: Yes or no?

The Witness: Yes.

Q. What did they say?

Mr. Maguire: Same objection.

The Court: I will allow it.

Mr. Maguire: Exception."

61. The Court, over the objection and exception of counsel for the defendants, erroneously admitted the following testimony which dealt with conversations had between the witness and unknown men who were not shown to have aided and abetted in the conspiracy, and with demands made by these men for the payment of money:

"Q. Did any of those persons ask you for any money?

Mr. Maguire: Objected to.

The Court: Sustained.

Did you give any money to anybody?

The Witness: No.

8261

Q. Did you have any conversation with those persons about giving them money? A. Yes.

Q. Was anything said in that conversation about the amount of money they wanted?

Mr. Maguire: Objected to.

A. Yes.

Q. Was an amount mentioned?

The Court: One moment.

Mr. Ennis: I am sorry.

The Court: When counsel rises to make an objection, I have to pass on it. Please don't put another question until I dispose of it. Strike out the last question. Read the previous question and the

8262

objection.

(Previous question and objection read.)

The Court: Overruled.

Mr. Maguire: I respectfully except.

Q. Something was said? A. Yes.

Q. What amount was mentioned?

Mr. Maguire: Objected to.

The Court: I will allow that.

Mr. Maguire: Exception.

A. What amount?

Q. Was mentioned, yes. A. $9.42.

Q. Did some of those men mention that amount?

A. Yes, sir.

Q. What did they say about that amount?"

62. The Court, over the objection and exception of counsel for the defendant, erroneously admitted into evidence the following conversation between the witness and some unknown men who were not in any wise shown to be connected with the alleged conspiracy: 8264

"Q. Well, do you want to stand up and tell us if you see any of those men in this court room? A. No, I don't.

Q. What conversation did you have with the men?

Mr. Maguire: Objected to.

The Court: Overruled.

Mr. Maguire: Exception.

A. All right?

Q. Yes, you may answer. A. Why, they came up and told me that I had to have a man to unload, and I asked them what they meant by it. He said, 'Well, it is a new rule now. You have to have a City man for over 45 miles run to unload your truck.' I said, 'Well, 8265 we never did before.' I said, 'We don't even unload it ourselves.' He said, 'We have to cover the truck anyway and it is going to cost you $9.42 to have it unloaded.' So we were talking. So he told me I would have to call the boss up and get the money. So I called up and the boss said, 'Well,'——"

8266 *Assignment of Errors.*

63. The Court committed the error above stated by allowing the following testimony:

"Q. Was there any conversation with any one of these three men about going to the union hall before you went up there? A. One of them suggested that the other take me up——

Mr. Maguire: Objected to.

The Court: Strike out the answer. Just answer yes or no.

Q. Yes or no? A. Yes.

Q. What was the conversation?

8267

Mr. Maguire: Objection.

The Court: Which one of the men did you have the conversation with?

The Witness: A tall fellow.

The Court: Which one was it with respect to the man to whom the $9.42 was paid?

The Witness: Well, he is the one I went in the hall with. It was a tall man that told him to take me up there.

Q. What was said about going up there?

Mr. Maguire: Objection.

The Court: I will allow it.

Mr. Maguire: Exception.

8268 A. He told me to go up there and see if the check was there before I could get out of New York."

64. The Court again committed the error above set forth, by admitting the following testimony:

"Q. And what did you see? A. Beg pardon? The car?

Q. Automobile? A. Yes.

Q. How many men were in it? A. Sometimes there would be only one, maybe two, three or four in it.

Q. And what did the automobile do?

Mr. Maguire: Objected to.

The Court: What did the automobile do?

Q. What did you see it do? A. Follow me.

Mr. Maguire: Objected to.

The Court: I will allow him to say that.

Mr. Maguire: Exception.

Q. Where did it follow you to? A. To the places I was going to deliver.

Q. And what did you see the men in the automobile 8270
do there?

Mr. Maguire: Objected to.

By the Court.

Q. Did you ever see any of these men before who were in that automobile? A. No, I did not.

Q. Did you ever see them subsequently? A. No, I have not.

Q. Did you have any talk with them? A. No.

Q. Did you observe anything on their person? A. No, I have not.

Q. When did this occurrence take place that you are now referring to? A. Different times.

Q. Well, was it after the occasion when you went to 8271
the union office? A. It was after, yes, sir.

Q. How long after? A. Oh, when John Gaughan came to work for us.

Q. Was it before John Gaughan came to work or was it after he came to work? A. After.

Q. After he came to work? A. Yes.

The Court: Now read the question.

(Mr. Marks' last question read.)
The Court: I will allow that.
Mr. Maguire: Exception."

65. The Court erred in denying the motion to strike out the testimony of the witness Earl Fowser:

"Mr. Murray: If your Honor please, I have no cross-examination beyond moving to strike out the witness' testimony as irrelevant to the issues in this indictment.
The Court: Denied.
Mr. Murray: Exception."

8273

66. The Court erred in denying the motion to strike out the testimony of the witness Clinton B. Newell:

"If your Honor please, I renew the motion to strike out the testimony of the witness on the ground that it bears no relevancy to the issues in this indictment.
The Court: Denied.
Mr. Murray: Exception."

67. The Court erred in denying the motion to strike out the testimony of Theodore J. Williams:

"Mr. Murray: If your Honor please, I move to strike out the testimony of the witness on the ground that it is irrelevant and not pertinent to the issues in
8274 this indictment.
The Court: Denied.
Mr. Murray: Exception."

68. The Court erred in admitting over the objection and exception of counsel for the defendants the following testimony concerning a conversation had between the witness and some unknown men, and acts of those men, who

were not shown to have aided and abetted in the conspiracy:

"Q. Did those men at any time show you anything before they left?

Mr. Maguire: Objected to as having already been answered.

The Court: Overruled.

Q. Did you hear the question, Mr. Trembley? A. Yes, sir. I think I asked them if they had a union book.

Q. Did they? A. And one of them showed me a book. 8276

Q. Did you look at the book? A. Yes, sir.

Q. What did you see on it? A. That it was an 807 book.

Q. Now, will you tell us what conversation you had with those men when you first saw them?

Mr. Maguire: Objected to.

The Court: Overruled.

Mr. Maguire: Exception.

A. Well, just as I asked them if they had a book, they says they was going to wait for Mr. Gaughan to come; and that is all I said to them, and I went back to the truck."

8277

69. The Court erred in denying the motion of counsel for the defendants to strike out the testimony of Harry T. Trembley:

"Mr. Murray: I move to strike out the testimony of this witness, if your Honor please, on the ground that it is not relevant to the issues.

The Court: Denied.

Mr. Murray: Exception."

8278 *Assignment of Errors.*

70. The Court erred in denying the motion to strik out the testimony of Ronald G. Carman:

"Mr. Boudin: If your Honor please, I move t strike out the testimony of this witness on the groun that it has no relation to the crime charged in th indictment or either of the indictments.

The Court: Denied.

Mr. Boudin: Exception.".

71. The Court erred in denying the motion of counse for the defendants to strike out the testimony of Sheldo Carll:

8279

"Mr. Boudin: If your Honor please, I move to strik out the testimony of this witness on the ground tha it has no relation to the crime charged in the indict ment.

The Court: Overruled.

Mr. Boudin: Exception."

72. The Court erred in admitting into evidence a co versation between the witness and Mr. Larkin which wa not binding on the defendants:

"Mr. Maguire: I object to the conversation wit Larkin as not binding on the defendants.

The Court: Overruled.

Mr. Maguire: Exception.

8280

The Court: Just what was said.

Q. Will you state the conversation, Mrs. Libe? A I asked Mr. Larkin if I had two trucks in New Yor with a half hour's stop, if I would have to have a ma on each truck; I wanted to understand what it wa going to cost me or what I could do to get my mer chandise delivered; and he told me that I would hav to have a man on each truck regardless of the lengt

of time it was in New York, and I also asked about an hourly rate, and if I could interview and hire a man whom I would feel suitable to work for me; and I was told there were two men there to serve my trucks, and that was all I could do about it."

73. The Court erroneously admitted the following testimony which was extremely prejudicial to the rights of the defendants:

"Q. Where did you go after these persons got on your truck? A. Across the highway, across the street.

Q. Did you speak to anyone?

Mr. Maguire: I object to this as immaterial; highly prejudicial. 8282

The Court: You may answer yes or no.

A. Yes.

Q. With whom did you speak?

Mr. Maguire: I object to it as immaterial; certainly not binding on these defendants.

By the Court.

Q. Do you know who the person was to whom you spoke? A. Yes, sir.

Q. Do you know him by name? A. No, sir.

Q. Do you know him because of the manner in which he was dressed? A. Yes. 8283

By Mr. Ennis.

Q. What was he?

Mr. Maguire: Objected to.

The Court: I will allow it.

Mr. Maguire: Exception.

The Court: You may answer.

A. An officer.

By the Court.

Q. You mean a police officer? A. Yes, sir.

Q. Did you have a conversation with him? A. A few words.

Q. And then did you go back to your truck? A. No, sir.

By Mr. Ennis.

Q. Did you go any place with him?

Mr. Maguire: I object to it as immaterial.

The Court: Sustained.

8285 Q. Did you see him go to your truck? A. See who?

Q. The police officer. A. The police officer did not go to my truck.

Mr. Ennis: That is all.

Mr. Murray: If your Honor please, in behalf of my defendants I move for a withdrawal of a juror on the ground that the questions asked by the Government's attorney and the response made by this witness in respect to an incident in New Jersey is highly prejudicial. I submit, your Honor, that it was inadmissible for any purpose to connect my defendants, and I urge your Honor to grant a mistrial.

The Court: Well, in the first place, that was stricken out; the jury was directed to disregard it.

8286 It does not seem to me that anything has been brought out here that is prejudicial, and I will deny your motion.

Mr. Murray: Will your Honor hear me further, please?

The Court: No.

Mr. Murray: I respectfully except.

The Court: Not in the presence of the jury. I will hear you at recess time.

Mr. Maguire: May it be considered that the motion is made in behalf of all the defendants?

The Court: Yes, and denied.

Mr. Maguire: And exception."

74. The Court erroneously admitted the following conversation had between the witness and unknown men:

"Q. Several drivers? A. Yes, sir.

Q. Do you know who any of them were? A. Several came out of Salem, the same place I did.

Q. What was said?

Mr. Maguire: Objected to. 8288

The Court: Overruled.

Mr. Maguire: Exception.

A. They were telling us——

The Court: Well, who was telling you? Who spoke?

The Witness: Farrell.

The Court: What did Farrell say?

The Witness: He was telling us about one of R. A. Brynes' drivers getting beat up around the George Washington Bridge.

Q. What else did he say about it? A. That is all he said. Just how they tried to gypsy a load up in Northern New York, up around the Washington Bridge. 8289

Mr. Maguire: I move to strike that answer out, if your Honor please.

The Court: Let me hear the answer.

(Answer read.)

The Court: Motion denied.

Mr. Maguire: Exception.

Mr. Ennis: That is all."

75. The Court erroneously refused to grant the motion of the defendant to strike out the testimony of the witness Finlaw, with regard to an incident on George Washington Bridge:

"Mr. Boudin: If your Honor please, at this time we move to strike out the testimony of the last witness with respect to an alleged incident on the George Washington Bridge.

The Court: Well, I will deny it at this time. You may renew it.

Mr. Boudin: Exception."

8291 76. The Court erroneously admitted the following testimony:

"Q. Before you got into a car and went up to the union hall, was there any further conversation about your trucks at the Munson Diner? A. There was someone in the back, I don't know who, made a remark it would be a shame——

Mr. Boudin: I object, if your Honor please. I object to it.

The Court: Overruled.

Mr. Boudin: Exception.

A. (Continuing) —it would be a shame to upset such nice trucks. Three of them was brand new, the

8292 first trip."

77. The Court erroneously admitted the following testimony between the witness and an individual who was not connected with the crimes charged:

"Q. Before that conversation in union hall and the meeting on that day with Stimus, had you ever talked to him? A. Yes; on the telephone.

Q. Well, can you now say that the voice you heard on the telephone was his? A. Yes.

Q. When did you first talk to him on the telephone? A. One day before I came up to sign a contract.

Q. Did you have trucks in New York on that day? A. Yes.

Q. What was the conversation with Stimus?

Mr. Maguire: Objected to.

The Court: Overruled.

Mr. Maguire: Exception.

Q. What was the conversation? A. We had some trucks up in New York that morning, and they were being held up; that is, they could not unload—— 8294

The Court: Strike that out, unless that is what you said.

By the Court.

Q. Are you telling us now about your trucks from some other source, or is that what you said in the conversation with Stimus? A. Well, Stimus called me on the telephone.

Q. What did he say? A. He said, 'If you want to get your trucks unloaded you have got to come up here and sign a contract.'"

78. The Court erroneously admitted into evidence statements and acts of three unidentified men, which statements and acts were in no wise binding on the defendants: 8295

"Q. Who had been there? A. Why, as I backed up to the platform—I had no sooner backed up to the platform when a Ford roadster, a Model A, approached and three men came to me——

Q. Did they get out of——

Mr. Maguire: I object to that.

The Court: Overruled.

Mr. Maguire: Exception.

Q. Did they get out of the roadster? A. They got out of the roadster and approached me——

Mr. Maguire: I object to the conversation.

The Court: He has not given any.

Mr. Maguire: He is about to give one.

The Court: Well, I don't know. He says three men got out and approached him.

8297 A. (Continued) And approached me and asked me——

Q. No, just a minute.

The Court: Not what they asked you.

A. They asked me if I——

The Court: No.

Q. No, don't give the conversation. They approached you? A. Yes.

Q. Did they speak to you? Yes or no? A. Yes.

Q. Did you see anything on their clothing? A. Why yes.

Q. Had you ever seen these men before? A. No, sir.

8298 Q. Have you ever seen them since? A. I don't recall.

Q. What did you see on their clothing? A. Soft buttons.

Q. What did they say to you?

Mr. Maguire: Objected to.

The Court: Overruled.

Mr. Maguire: Exception.

A. What did they say to me?

Q. Yes. A. Why, they asked me if I had a Local 807 man on my truck, and I told him no, and they told me, warned me that I should not unload that unless I had hired——

Mr. Maguire: I move to strike it out.

The Court: Strike it out, the warning.

Q. What did they say? What were their words? A. Well, they told me if I knew what was good for me I would lay off. That meant not to go back and unload that truck."

79. The Court erroneously admitted into evidence records of Local 807, an unincorporated association. These records were in Court by virtue of a subpoena served by the Government on the union: 8300

"Q. Mr. Larkin, are these two papers, Government's Exhibits 68 for Identification and 69 for Identification among those that you produced pursuant to subpoena? A. They are.

Mr. Marks: I offer them in evidence.

Mr. Boudin: They are objected to on the same grounds.

The Court: I would like to look at them.

Mr. Boudin: They are still produced from our possession.

Mr. Marks: May we have the grounds specified, your Honor? 8301

The Court: I will ask for the grounds if I am not clear what it is. If I think I know I will act on it.

Mr. Marks: I think we would like to know, your Honor.

The Court: You may ask Mr. Boudin some time; maybe he will tell you. The objection as to 68 for Identification is overruled and the document will

be received in evidence as against the defendant union Local 807 only.

* * * * * *

Mr. Boudin: If your Honor please, we will withdraw that particular ground of objection, the second ground of objection as to its authentication.

The Court: All right, it will be received.

Mr. Boudin: Exception,

The Court: Now I am talking about Exhibit 68, the International Constitution.

Mr. Boudin: Yes, the International Constitution."

8303

And further:

"Q. Mr. Larkin, where did you obtain Government's Exhibit 69 for Identification? A. From our office.

Q. Where in your office? A. We keep it in a cabinet.

Q. And how did you obtain them in your cabinet? A. They are printed by the local union.

* * * * * *

Q. Do you know whether any copy of that has been filed with the International Union? A. Yes, they have.

Mr. Marks: I renew the offer.

Mr. Boudin: I press the objection.

8304 The Court: Overruled.

Mr. Boudin: Exception."

80. The Court erroneously denied the motions in behalf of the defendants 807 of International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, William Campbell, Robert Dillon, Frank Downs, Austin Furey, Abraham Klenofsky, George Needelmann, Bernard L. Randazzo, Samuel Reichler, William Simpson, Tony

Venditti, Edward Weinheimer, George Bagley, Joseph Bender, Michael Cahill, John Gaughan, Manuel Magan, James Murphy, John Deegan, John Horan, Andy Jakakas, Leonard La Marne, Morris Reichler, Thomas Sharkey, Peter Waskiewicz, John Weinheimer and Harry Zollinger, to dismiss the indictment at the close of the Government's case:

"The Court: Well, when this case recesses it will be until Monday at 10.30, and in the meantime I will reserve decision on the individual motions as to the defendants Bagley, Jakakas, Katz, Morris Reichler, Stolowitz, Waskiewicz, as I desire to examine the testimony concerning those particular defendants. As 8306
to the other individual defendants and as to Local 807 the motions to dismiss will be denied in all respects. I do not feel that this is the time to make any considered statement or opinion.

* * * * * * *

Mr. Boudin: I take it, your Honor, an exception to all defendants?

The Court: Yes.

Mr. Boudin: To your Honor's overruling the motions.

* * * * * * *

The Court: On Friday the Court reserved decision as to certain individual defendants and since then has read the record with respect to the testimony appertaining to those defendants, and I will say now 8307
officially that those motions are denied.

* * * * * * *

Mr. Boudin: If your Honor please, we respectfully except on behalf of those defendants as to whom your Honor last Friday reserved decision. That is in addition to the exception taken on behalf of those defendants Friday.

The Court: Well, for the purpose of the record you may have an exception now in the presence of the jury upon all of the motions made by counsel for all of the defendants and which were denied. We are now ready to proceed."

81. The Court erroneously admitted the following testimony:

"Q. What did you say on that occasion, Mr. Jakakas? A. Say what?

Q. In the police station at the time you were there with the two detectives and Mr. Cooper?

8309

The Court: Do you remember what you said?

The Witness: I didn't say anything.

The Court: You didn't say anything?

The Witness: No, sir.

Q. How long were you in the police station? A. Two hours.

Q. And during that time you didn't say a word? Is that your testimony? A. Oh, they asked me a few questions.

Q. Well, what did you say?

Mr. Murray: I object, if your Honor please. I press my objection.

The Court: Overruled.

8310 Mr. Murray: Exception.

A. They asked me if I stole 20 tubs of butter with this other man, and I told them 'No.'

Q. Go ahead. Anything else that you said? A. And one of them wanted me to sign some kind of a paper. That is all.

Q. Now you can't recall anything else that was said? A. No, sir.

Q. Where had those tubs been taken from, do you recall?

Mr. Murray: I object, if your Honor please, to the form of the question.

The Court: Sustained.

Q. Do you recall whether anything was said as to where those tubs of butter were taken from?

Mr. Murray: I object.

The Court: Overruled.

Mr. Murray: Exception.

The Court: Yes or no.

A. No, sir. 8312

The Court: Had you had some tubs of butter on the truck you were driving?

The Witness: I had plenty of butter.

Q. Were these boxes of butter a part of a load on a truck you had been driving?

Mr. Murphy: I object to the form of question, if your Honor please.

The Court: I will allow that.

Yes or no.

Mr. Murray: Exception."

82. The Court erroneously denied the motion of counsel for defendant Jakakas, to strike from the record testimony 8313 relating to an incident at the Charles Street police station, which testimony was immaterial and highly prejudicial:

"Mr. Murray: If your Honor please, I move to strike out all questions and answers relative to the incident in the Charles Street police station, on the ground that it in no wise affected or impeached the credibility of this witness, on the ground that it is out-

8314 *Assignment of Errors.*

side of the issues in this indictment, and further on the ground that it was highly prejudicial with the implications that were sought to be drawn from it.

The Court: Denied.

Mr. Murray: I except.

I ask your Honor now to instruct the jury to disregard the questions and answers concerning the Charles Street police station incident.

The Court: I won't do that at this time.

Mr. Murray: I respectfully except.

By reason of the questions elicited concerning the Charles Street police station incident, I now move for
8315 the withdrawal of a juror on the ground that it is prejudicial and calculated to be inflammatory against the defendant.

The Court: Denied.

Mr. Murray: Exception."

83. The Court erred, in that, over the objection and exception of counsel for the defendants, it allowed into evidence Government's Exhibit 85 for Identification:

"Q. Did you claim the right to work outside New York City at all, Mr. Needelmann, in regard to Mr. Pitzer's tricks? A. No.

Q. Never did? A. No.

Mr. Cahill: I will offer this paper for identifica-
8316 tion.

The Court: 85 for Identification.

(Marked Government's Exhibit 85 for Identification.)

Q. In whose handwriting is Government's Exhibit 85 for Identification, Mr. Needelmann, if you please? A. It is my handwriting.

Mr. Cahill: I will offer 85 for Identification in evidence.

Mr. Murray: I object, if your Honor please, on the ground that there is no date fixed here.

The Court: May I see it?

Mr. Cahill: Yes (handing to Court).

The Court: Sustained.

Mr. Cahill: May I have a moment, please?

The Court: Yes.

Mr. Cahill: If your Honor please, I offer this on the same theory as the other.

The Court: I do not know whether you are offering this as something that transpired before the 31st of May or after the 31st.

Mr. Cahill: If your Honor please, since it is undated I have to take it on the hypothesis that it is after. I offer this as affecting the credibility, as being in the handwriting of the defendant, and as being addressed, as your Honor has seen. 8318

Mr. Boudin: That is objected to, if your Honor please.

The Court: Well, you may interrogate this witness for the purpose of ascertaining whether he knows when it was done or not.

Q. When did you write Government's Exhibit 85 for Identification, Mr. Needelmann? A. I don't remember.

The Court: Just show it to him.

(Paper handed to witness.)

The Witness: I don't remember. 8319

Q. Well, have you no recollection as to when you wrote it?

The Court: Just a moment. Let me have it. Suppose you take it in your hand that way and look at it and tell me whether that refreshes your recollection or not, and whether that has anything to do with it.

The Witness: I don't remember the year.

Q. You have no recollection whatsoever as to when you wrote 85 for Identification? A. No.

Q. Well, are you clear that you did not write it within the last year? A. I don't remember.

Q. Did you write it within the last six months? A. I don't recall.

Q. Did you write it within the last three months? A. I don't remember it at all.

Q. Haven't got the slightest idea of when you wrote it? A. No.

Q. No doubt it is in your handwriting, is it? A. Yes.

8321 Q. Is it in your handwriting? A. It is in my handwriting.

Mr. Cahill: I press the offer.

The Court: Do you intend to call the person by whom you claim this paper was received to show or attempt to show the date when it was received?

Mr. Cahill: If your Honor please, I don't think I would be in a position as to date, and I press it on the question of credibility.

The Court: All right. I will overrule the objection, but I say to the jury now that this is not to be taken as proof of anything which may have happened prior to the 31st day of May, 1938, and irrespective of the date or it not having any date, as the

8322 case can be, it can be taken only on the question of the intent of this witness as a defendant in this case.

Mr. Murray: The defendant excepts, if your Honor please."

84. The Court erred, in that it refused to allow attorneys for the defendants to offer proof with regard to the early history and development of over-the-road driving of

trucks and the coeval development of policies in different regions and localities as follows:

"Q. Is Biglerville in the territory covered by Local 430? A. Biglerville is in——

Mr. Cahill: Objected to as immaterial.
The Court: Sustained.
Mr. Boudin: Exception.
Mr. Maguire: I respectfully except.

Q. Now, how far is Biglerville from York, Pennsylvania? A. Biglerville is twenty-four miles from York.

Q. Now, at any time between December 1, 1936, and May 31, 1938, can you tell us if Pitzer, H. Earl Pitzer, had a contract, union contract with Local 430? 8324

Mr. Cahill: Objected to as immaterial.
The Court: Overruled.

A. The Pitzer Trucking Company never had a contract with Local 430.

Q. Now, in this period, December 1, 1936 to May 31, 1938, did Local 430 of York have contracts with other over-the-road trucking concerns operating out of York and vicinity?

Mr. Cahill: Objected to as immaterial.
The Court: He may answer yes or no.

A. Yes.

Q. And can you tell us approximately how many such contracts they had, the union had? 8325

Mr. Cahill: I press the objection.
The Court: Sustained.
Mr. Maguire: I respectfully except.

Q. Now, did you know the union conditions and requirements with reference to wages, hours and working conditions——

Mr. Cahill: Objected to as immaterial.

Mr. Maguire: May I finish, please?

The Court: Just a moment. Let him finish his question, please.

Mr. Cahill: I beg your pardon. I thought you did.

Q. (Continuing) —from the period December 1, 1936 to May 31, 1938?

Mr. Cahill: I press the objection.

The Court: Sustained.

Mr. Boudin: Your Honor, may I suggest to your Honor——

8327

The Court: Yes?

Mr. Boudin: I would like to suggest that the jury be excused and we discuss further the matter that we had before your Honor.

The Court: Proceed.

Q. Now, the contracts that Local 430 had with other trucking concerns in the period that we have mentioned, were they uniform?

Mr. Cahill: I press the objection.

The Court: Sustained.

Mr. Boudin: Exception.

Mr. Maguire: Exception.

8328

Q. Can you tell us, Mr. Schmehl how Local 430 in the period that I have mentioned before determined what its requirements and conditions should be?

Mr. Cahill: I press the objection.

The Court: Sustained.

Mr. Maguire: Exception.

Q. Will you state for us, Mr. Schmehl, the means of some of the over-the-road trucking companies operating out of York and vicinity that Local 430 had con-

tracts within the period that I have already mentioned?

Mr. Cahill: I press the objection.

The Court: Sustained.

Mr. Maguire: Exception.

The Court: It is now 12 o'clock. We will take a recess for fifteen minutes.

(Short recess.)

(The following proceedings occurred during the recess in chambers:)

Mr. Boudin: I thought we were going to get a ruling on those offers before we put any witnesses on so that we would avoid the actual putting of 8330
questions.

The Court: Well, you are right. When you were all in here this morning I said if there was anything further that anybody wanted to say on the subject of the offer of proof, that I would be glad to hear you during the recess in view of the fact that there was some misunderstanding as to where you were to be heard this morning, and I therefore did not suppose that you would put any witnesses on until we took the recess at 12 o'clock. As long as the witness went on the stand I had decided to let the examination go along.

Mr. Boudin: That is why I suggested, if your Honor please, about the recess.

8331

The Court: No, we recess at 12 o'clock, and now we are in recess, and whatever you want to say about it, I will be glad to hear you.

Mr. Boudin: In order to avoid the actual putting on of witnesses, I would like your Honor to rule now on the offers of proof.

The Court: I will rule right now.

Mr. Boudin: Yes.

The Court: As I understand, the question of competency is not presented in the offer of proof made by the defendants with respect to the several points upon which it is proposed by them, that is, from A to J set forth in the brief, with respect to the situation regarding the early history and development of over-the-road driving of trucks and the simultaneous development of policies in different regions or localities and the execution of contracts and terms and conditions of such contracts—is that throughout the country or is that limited to any part of the country?

8333 Mr. Boudin: Mr. Maguire would know.

Mr. Maguire: We had in mind the areas that have been mentioned in the trial.

The Court: Note that on the record: With respect to areas referred to during the trial.

Mr. Maguire: We also include in our tender a general showing.

Mr. Cahill: Throughout the country?

Mr. Maguire: Yes. We make it as a separate part.

The Court: I hold that such proof under the form of the indictment is neither relevant, material or germane. The question involved here is whether the defendants committed conspiracy in the manner alleged in the indictment. If the Government fails

8334 to establish that, there is no case. If the Government does establish it, there is no justification for the acts which the Government must rely upon to maintain the crime alleged in the indictments. Now you gentlemen have your exception.

Mr. Boudin: Well, we take exception to that, if your Honor please, and may I ask your Honor to pass on those requests in the form that I presented it on Saturday? Your Honor has that. It is some

what different from the form presented by Mr. Maguire.

The Court: Well, I haven't it before me because I delivered it to the reporter on Saturday and I have not as yet received a copy of the minutes. But it seems to me that the ruling I have already made covers it.

Mr. Boudin: Frankly, I did not compare it. That is why I want it in that form.

The Court: I do not think, Mr. Boudin, there is any necessity for me to pass upon those requests seriatim because I have said that I regard that offer of proof as irrelevant and immaterial. 8336

Mr. Boudin: Well, I just wanted to make sure that it is included in the ruling. You can call it 1 to 11 instead of A to J. I do not mean that your Honor should pass upon them seriatim.

The Court: All right. Let the record show that what Mr. Maguire in his brief referred to as paragraphs A to J Mr. Boudin referred to in the offer of proof presented by him on last Saturday and incorporated in the minutes as 1 to 11, and there may be some difference in the verbiage, but in principle they are substantially the same. Does that cover your point?

Mr. Boudin: Yes. We respectfully except. The ruling is the same and we respectfully except on behalf of all the defendants. When your Honor 8337 said this morning if we had anything further to say, I did not know what you meant exactly.

The Court: I thought you might cogitate over Sunday in your mind what was said by Mr. Burling, and that he, on the other hand, might have something to add to what you have said, and I wanted to give both of you the opportunity, if you wanted to

do it, to argue the thing further at 10 o'clock, if there was anything to argue.

(Discussion off the record.)

(The following proceedings were had in the court room:)

(Roll call of the defendants and all were present.)

The Court: Proceed.

Mr. Maguire: In view of the ruling that has been made in chambers by your Honor, I have no further questions of this witness.

The Court: Any cross-examination?

8339 Mr. Cahill: No cross.

The Court: Members of the jury, during the recess counsel for the defendants indicated to me in chambers the proof which they intended to offer along the line of that which was attempted to be brought out from the witness who has just left the witness stand, and they made an offer of proof for the purpose of the record so that in the event of such determination in this case that there might be an appeal it will be in the record for the consideration of the appellate court. Without passing upon the competency of such proof in the form in which it was offered, the Court determined that such proof was neither relevant, material or germane under the issues as they are tendered here by the indictment 8340 in this case and the pleas of not guilty of the several defendants on trial which raise the issues to be heard and determined. Call your next witness."

85. The Court erred, in that, over the objection and exception of counsel for the defendants, it allowed into evidence Government's Exhibit 65 for Identification.

86. The Court erred, in that it refused to allow Mr. Boudin, one of the counsel for the defendants, to state his views of the law in his summation, as follows:

"Mr. Boudin: Now, ladies and gentlemen, I have practiced law for over forty years. I have formed certain opinions about this law, and I want to say to you what I think is the law, and I say if I am right on the law, if it turns out that the Court instructs you on the law in accordance with the opinion that I have, your verdict must be not guilty in this case on all counts.

Mr. Cahill: I object to Mr. Boudin stating to the jury what Mr. Boudin thinks the law is.

The Court: Yes. I said I had permitted him to 8342
state what he thought the law was, and in view of his statement at that time that he did not intend further to refer to it, I took it for granted that that was his determination. Now to revert back to it, I shall have to ask him to refrain.

Mr. Boudin: I respectfully except to your Honor's ruling limiting the kind of argument I may make, and I will try to confine my argument, with due deference to your Honor's ruling. Well, I haven't so much time left anyway, because my time is even more limited than Mr. Murray's, in order to not keep you here too late today. We have agreed to limit our time, because of that, as far as summation is concerned."

87. The Court erred in refusing counsel for the defend- 8343
ants' requests to charge, as follows:

"The Court: Now, with respect to the defendants' requests to charge:

No. 1 I feel has already been charged but counsel may except, if they choose, in so far as it has not been charged, and the same is true with respect to No. 3 and No. 5.

8344 *Assignment of Errors.*

Mr. Boudin: I take it your Honor is giving us an exception as you are going along.

The Court: I am telling you you can take it.

Mr. Boudin: Well, we do take it, your Honor.

The Court: I am not acting as counsel for either side.

Mr. Boudin: Well, your Honor, we except.

The Court: Requests Nos. 3 and 4 refused.

Mr. Boudin: Exception.

The Court: No. 6 refused.

Mr. Boudin: Exception.

The Court: No. 7 has already been charged.

8345 No. 8 refused.

Mr. Boudin: Exception.

The Court: No. 9 refused.

Mr. Boudin: Exception.

The Court: No. 10 refused.

Mr. Boudin: Exception.

The Court: No. 11 refused.

Mr. Boudin: Exception.

The Court: No. 12 refused.

Mr. Boudin: Exception.

The Court: No. 13 refused.

Mr. Boudin: Exception.

The Court: No. 14 I feel has already been charged, but you may except in so far as I have not charged it in the language as precisely proposed by you.

8346 Mr. Boudin: We do except.

The Court: No. 15 I decline to charge.

Mr. Boudin: Exception.

The Court: No. 16 I feel I have already charged, and you may except to any extent that my charge does not conform to your request.

Mr. Boudin: We do so.

The Court: No. 17 refused.

Mr. Boudin: Exception.

The Court: No. 18 refused.

Mr. Boudin: Exception.

The Court: No. 19 refused.

Mr. Boudin: Exception.

The Court: No. 20 refused.

Mr. Boudin: Exception.

The Court: 21. I charge the jury that in order that any person or organization may be found guilty of a violation of the Sherman Anti-Trust Law, not only must the object of the combination or conspiracy be the control or regulation of, or interference with, interstate commerce, but the actual interference must be direct and substantial.

8348

No. 22 is refused.

Mr. Boudin: Exception.

The Court: And 23.

Mr. Boudin: Exception.

The Court: 24. I charge the jury that the expression 'terms and conditions of labor' is not limited to wages to be paid for labor, or the hours of performance of labor, but includes the question of the organization of workers into labor unions.

No. 25 is refused.

Mr. Boudin: Exception.

The Court: And its several subdivisions.

Mr. Boudin: Exception.

The Court: 26. I do not see the materiality of it, but I will charge it.

8349

I charge the jury that it is not a violation of the Sherman Anti-Trust Act for labor unions to arrange among themselves for a division of territory so that one labor union would not encroach upon the territory of another. But I do not recall any proof that that was done in this case.

Mr. Boudin: I respectfully except to your Honor's statement as to the state of the proof in the case in connection with 26.

The Court: Well, the jury will be the judges as to whether there is any proof or not.

No. 27 I decline to charge.

Mr. Boudin: Exception.

The Court: And 28 I feel I have already covered, and you may except.

Mr. Boudin: I respectfully except to your Honor's failure to charge in the language requested.

The Court: All right.

29 refused.

Mr. Boudin: I except.

The Court: I will charge 30.

8351 I charge the jury that it is not a violation of the Sherman Anti-Trust Act for a labor union, its officers or members, to persuade merchants, or members of the public, not to purchase non-union-made goods, or to receive commodities delivered by non-union drivers, even though such goods or commodities are sold or delivered in interstate commerce.

No. 31 is refused.

Mr. Boudin: Exception.

The Court: No. 32 is refused.

Mr. Boudin: Exception.

The Court: No. 33 is refused.

Mr. Boudin: Exception.

The Court: 34 I will charge.

8352 A labor union consisting of teamsters or drivers, and its officers and members, have a right, in order to protect their own standard of wages, to ask members of other labor unions, as well as merchants, not to receive merchandise delivered by non-union members, or by members of unions having a lower standard of wages, even though the merchandise in question is delivered in the course of interstate commerce. That is the law.

35 is refused.

Mr. Boudin: Exception.

The Court: And 36 and 37.

Mr. Boudin: Exception to 36 and exception to 37.

The Court: 38. I will charge the jury that the question of the existence of a conspiracy as charged under the anti-trust indictment—which I presume means the Sherman Act—must be found by them as an independent fact, irrespective of the nature of the means employed by the defendant in attaining, or in attempting to attain, the objects of the said conspiracy; and that that applies to each and every one of the defendants, including the labor union defendant.

39 is refused. 8354

Mr. Boudin: Exception.

The Court: No. 40——

Mr. Boudin: Exception.

The Court: I am charging that.

Mr. Boudin: I beg your Honor's pardon.

The Court: I am charging so much of it as requests that the Anti-Racketeering Act does not attempt to punish violence or threats of violence as such, which are left to be dealt with by state law, but with obtaining of money from those engaged in interstate commerce by means of violence or threats of violence.

41. I will charge the jury as requested, that the use of violence, or the threat of violence, against persons engaged in interstate commerce or in connection with interstate commerce, other than for the purpose of obtaining or extorting the payment of money is not a crime under the Anti-Racketeering Act; and that it is not a crime under the Anti-Racketeering Act to conspire to commit violence, or the threat of violence, unless that is used as a means for the purpose or object of obtaining the payment of money or property, or some other valuable consideration in the nature of money or property. 8355

8356

No. 42 I will charge with an amendment.

'Valuable consideration' as used in the statute may mean a contract for services to be paid for my money or property, except a contract for the payment by a bona fide employer to a bona fide employee wages for actual work performed, which are expressly excluded by the law.

Mr. Boudin: I respectfully except to the modification.

The Court: 43 is refused.

Mr. Boudin: Exception.

I think your Honor charged 44.

8357

The Court: I charged 44. I think also I charged 45 in substance.

Mr. Boudin: Well, I respectfully except in so far as your Honor has not charged in the language requested. I may frankly say I am doing it for protection. I am not in a position to read it.

The Court: Nobody can find fault with counsel protecting the interests of his clients.

I will charge 46.

Under the provisions of the Anti-Racketeering Act with respect to existing laws of the United States, the provisions with respect to the 'clear proof' which is necessary to show authorization or ratification by a labor union, and its officers and members, before they can be convicted, applies to conviction under the

8358

Anti-Racketeering Act as well as to conviction under the Anti-Trust Act.

I think I have already said it, though perhaps not in your language.

I have already covered, substantially, 47, and I refuse to charge 48 and 49 and 50 and 51.

Mr. Boudin: I respectfully except to your Honor's failure to charge 47 in the language requested, and also to your Honor's failure to charge 48, 59 and 50.

The Court: And 51.

Mr. Boudin: And I also except to that, if your Honor please.

The Court: I will charge 52.

The obtaining of employment for its members is a legitimate object of a labor union.

I refuse to charge 53 and 54 and 55 and 56 and 57.

Mr. Boudin: I respectfully except to your Honor's failure or refusal to charge 53, 54, 55, 56 and 57.

The Court: And 58 and 59 and 60.

Mr. Boudin: And I also except to your Honor's refusal to charge 58, 59 and 60.

The Court: I will charge 61. 8360

Agreement or acquiesence by the union cannot be deduced from the mere failure of the union to prevent any acts by its members which might be considered violations of the Anti-Racketeering Act, but it is a circumstance which the jury may consider.

Mr. Boudin: I respectfully except to the modification or addition.

The Court: 62 is refused.

Mr. Boudin: Exception."

88. The Court erred in denying counsel for the defendants' objections and exceptions to the charge, as follows:

"Mr. Boudin: If your Honor please, I respectfully except to your Honor's charge as a whole, and particularly to that portion of your Honor's charge in which your Honor, in instructing the jury on the proof of conspiracy, stated that no direct evidence of conspiracy is necessary; and I ask your Honor to charge specifically that that rule is modified in this case by the requirement of Section 6 of the Norris-La Guardia Act as to clear proof. In other words, while the evidence need not be direct, it must nevertheless be clear. 8361

The Court: Well, I hold that 'clear proof' and 'beyond a reasonable doubt' are one and the same thing.

Mr. Boudin: I respectfully except.

I also respectfully except to that part or portion of your Honor's charge in which your Honor stated or instructed the jury that at common law strikes were illegal. I also ask your Honor——

The Court: Do you question that statement that they were illegal?

Mr. Boudin: I respectfully do, if your Honor please. And I also ask your Honor to specifically in-
8363 struct the jury that there is no such thing as a common law in the United States, and that no one can be convicted in a Federal Court except in pursuance to a statute.

The Court: That is true; and I so charge.

Mr. Boudin: And I also respectfully except to that part or portion of your Honor's charge in which your Honor charged in substance, in form or in substance, that the provisions of the Clayton Act and other laws of the United States protecting unions and their officers and member in the pursuit of the legitimate objects of a labor union, is modified by the fact that they may not use means constituting a crime; and I respectfully ask your Honor to charge in that connection that that simply means that they would be amenable, or
8364 rather, liable for those crimes under the proper acts relating thereto and not under such acts as the Anti-Trust Act, for instance.

The Court: I decline to charge other than I have already charged.

Mr. Boudin: I also respectfully except to that part or portion of your Honor's charge in which your Honor instructed the jury as to the meaning of the term 'bona fide' as contained in this Anti-Racketeering

Act, not because that instruction was incorrect in so far as the meaning of 'bona fide' is concerned, but merely because it may be misleading to the jury; that they may think it means bona fide with respect to good faith with respect to a particular act, rather than the character of the union as a whole; and I, therefore, respectfully ask your Honor to specifically charge the jury in that connection that the expression 'bona fide' or 'good faith' means to the general character of the union and not with respect to any particular act.

The Court: No, 'bona fide' as I defined it refers to the question of whether a man is a bona fide employee or a bona fide employer.

8366

Mr. Boudin: Well, you charged it twice. I think your Honor also referred with respect to the character of the union. I may be mistaken, but I so understood at the time.

The Court: I did charge that the United States Supreme Court held that a union is presumed to be organized for lawful and legitimate purposes. That is bona fide, isn't it?

Mr. Boudin: Well, I shall not press this now since there is a specific request that I have made which I assume from your Honor's statement, your Honor will pass upon it separately, in which I shall ask for a specific charge that Local 807 is a bona fide union under the act in question, the Anti-Racketeering Act.

I also respectfully except to that part or portion of 8367
your Honor's charge to the jury in which your Honor charged the jury, in form or substance, that they may take into consideration acts or purported acts of some unknown persons.

I also respectfully except to that part or portion of your Honor's charge in which your Honor charged the jury that under certain circumstances the payment

for labor may not be considered payment of wages within the meaning of the Anti-Racketeering Act.

I specifically except also to your Honor's reference to the contracts in evidence in connection therewith.

And I also respectfully except to that part or portion of your Honor's charge in which your Honor charges, in form or substance, that the jury may find the defendant Local 807 guilty both under the Anti-Trust Act and under the Anti-Racketeering Act if they should find that the contracts entered into by the union were entered into with knowledge of the facts or circumstances under which they have been obtained

8369 by members of the union; that is, the acts which preceded the appearance——

The Court: Provided the jury find that those acts amount to a conspiracy so far as the individual defendants are concerned.

Mr. Boudin: Well, I except to that also as being insufficient to correct the error which I had thought your Honor had made."

88(a). The Court committed reversible error in that it did not adequately charge the jury on the law of the case, with sufficient clarity to enable them to apply the legal principles involved to the facts of the case; that it gave to the jury conflicting and contradictory instructions with respect to the law of the case and its applicability to the

8370 facts in this case; that the character of the charge as a whole must have been and was confusing to the jury; and in that it failed to give additional instructions to the jury, upon the request of the jury, in a manner and in terms adequate to remove the confusion or insufficiency which existed in the minds of the jury after the main charge of the Court; and in adding to that confusion by additional charges delivered in response to the request of the jury

for further information as to the law of the case and its applicability to the facts in this case.

89. The Court committed error in compelling the defendants to go to trial under two indictments which charged the same acts of conspiracy as offenses under two different statutes, thereby depriving the defendants of the due process of law guaranteed to them by the Fifth Amendment to the Constitution of the United States.

90. The Court committed error in compelling the defendants to go to trial under two indictments charging the same acts of conspiracy as offenses under two different statutes, thereby putting the defendants twice in jeopardy contrary to the provisions of the Fifth Amendment to the Constitution of the United States. 8372

91. The Court committed error in instructing the jury that it could find the defendants, and each of them, guilty on more than one count under the indictment under the Anti-Racketeering Act (C 102-395), thereby putting the defendants twice in jeopardy contrary to the provisions of the Fifth Amendment to the Constitution of the United States.

92. The Court committed error in refusing to set aside the verdict of the jury, for the reason that the said verdict was rendered and received by the Court contrary to the provisions of the Fifth Amendment to the Constitution of the United States against double jeopardy. 8373

93. The Court erred in imposing sentence upon the defendants under both indictments under which they were tried, such imposition of sentence being contrary to the provisions of the Fifth Amendment to the Constitution of the United States against double jeopardy.

8374 *Assignment of Errors.*

94. The Court erred in imposing sentence on more than one count on the indictment under the Anti-Racketeering Act (C 102-395) contrary to the provisions of the Fifth Amendment to the Constitution of the United States against double jeopardy.

Dated: New York, November 4, 1940.

EDWARD C. MAGUIRE AND
LOUIS B. BOUDIN,
Attorneys for Defendant Local 807.

LOUIS B. BOUDIN,
8375 Attorney for Defendant Michael Cahill.

JAMES D. C. MURRAY,
Attorney for the individual Defendants other than Michael Cahill.

Order Extending Time to File Record.

DISTRICT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA, Plaintiff, against LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN & HELPERS OF AMERICA, et al., Defendants.	102-395 102-394 Consolidated

8376

Upon the application of James D. C. Murray, Esq., attorney for the defendants, William Campbell, Austin

Furey, George Bagley, Joseph Bender, Joseph Deegan, Robert Dillon, Frank Downs, John Gaughan, John Horan, Andy Jakakas, Abraham Klenofsky, Leonard LaMarne, Manuel Magan, James Murphy, George Needelmann, Bernard L. Randazzo, Samuel Reichler, Morris Reichler, Thomas Sharkey, William Simpson, Tony Venditti, Peter Waskiewicz, Edward Weinheimer, John Weinheimer, and Harry Zollinger, and it appearing that there are reasonable grounds therefor, it is hereby

ORDERED, that the time of the said defendants, William Campbell, Austin Furey, George Bagley, Joseph Bender, Joseph Deegan, Robert Dillon, Frank Downs, John Gaughan, John Horan, Andy Jakakas, Abraham Klenofsky, Leonard LaMarne, Manuel Magan, James Murphy, George Needelmann, Bernard L. Randazzo, Samuel Reichler, Morris Reichler, Thomas Sharkey, William Simpson, Tony Venditti, Peter Waskiewicz, Edward Weinheimer, John Weinheimer, and Harry Zollinger, to settle and file their Bill of Exceptions and Record on Appeal and to file their Assignment of Errors herein be, and the same hereby is, extended to and including the 1st day of October, 1940. 8378

Dated, New York, June 26, 1940.

HULBERT,
United States District Judge.

8379

We hereby consent to the signing and entry of the foregoing Order.

Dated, New York, June 26, 1940.

JOHN T. CAHILL,
per D. L. M.
United States Attorney.

8380 **Order Extending Time to File Record.**

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE SECOND CIRCUIT.

UNITED STATES OF AMERICA, Plaintiff, against LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN & HELPERS OF AMERICA, et al., Defendants.	102-395 102-394 Consolidated

8381 Upon the application of Edward C. Maguire and Louis B. Boudin, Esqs., attorneys for the defendant, Local 807 of International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, and it appearing that there are reasonable grounds therefor, it is hereby

ORDERED, that the time of the said defendant, Local 807 of International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, to settle and file its Bill of Exceptions and Record on Appeal and to file its Assignment of Errors herein be, and the same hereby is, extended to and including the 15th day of October, 1940.

Dated, New York, N. Y., September 28, 1940.

8382 LEARNED HAND,
United States Circuit Court of Appeals Judge.

We hereby consent to the signing and entry of the foregoing Order.

Dated, New York, N. Y., September 27, 1940.

JOHN T. CAHILL,
per D. L. M.
United States Attorney.

Order Extending Time to File Record. 8383

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE SECOND CIRCUIT.

UNITED STATES OF AMERICA, Plaintiff, against LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN & HELPERS OF AMERICA, et al., Defendants.	102-395 102-394 Consolidated

8384

Upon the application of Louis B. Boudin, Esq., attorney for the defendant, Michael Cahill, and it appearing that there are reasonable grounds therefor, it is hereby

ORDERED, that the time of the said defendant, Michael Cahill, to settle and file his Bill of Exceptions and Record on Appeal and to file his Assignment of Errors herein be, and the same hereby is, extended to and including the 15th day of October, 1940.

Dated, New York, N. Y., September 28, 1940.

LEARNED HAND,
United States Circuit Court of Appeals Judge. 8385

We hereby consent to the signing and entry of the foregoing Order.

Dated, New York, N. Y., September 27, 1940.

JOHN T. CAHILL,
per D. L. M.
United States Attorney.

8386 **Order Extending Time to File Record.**

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE SECOND CIRCUIT.

UNITED STATES OF AMERICA, Plaintiff, against LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN & HELPERS OF AMERICA, et al., Defendants.	102-395 102-394 Consolidated

8387

Upon the application of James D. C. Murray, Esq., attorney for the defendants, William Campbell, Austin Furey, George Bagley, Joseph Bender, Joseph Deegan, Robert Dillon, Frank Downs, John Gaughan, John Horan, Andy Jakakas, Abraham Klenofsky, Leonard LaMarne, Manuel Magan, James Murphy, George Needelmann, Bernard L. Randazzo, Samuel Reichler, Morris Reichler, Thomas Sharkey, William Simpson, Tony Venditti, Peter Waskiewicz, Edward Weinheimer, John Weinheimer, and Harry Zollinger, and it appearing that there are reasonable grounds therefor, it is hereby

ORDERED, that the time of the said defendants, William
8388 Campbell, Austin Furey, George Bagley, Joseph Bender, Joseph Deegan, Robert Dillon, Frank Downs, John Gaughan, John Horan, Andy Jakakas, Abraham Klenofsky, Leonard LaMarne, Manuel Magan, James Murphy, George Needelmann, Bernard L. Randazzo, Samuel Reichler, Morris Reichler, Thomas Sharkey, William Simpson, Tony Venditti, Peter Waskiewicz, Edward Weinheimer, John Weinheimer, and Harry Zollinger, to settle and file their Bill of Exceptions and Record on Appeal and to file their

Order Extending Time to File Record. 8389

Assignment of Errors herein be, and the same hereby is, extended to and including the 15th day of October, 1940.

Dated, New York, N. Y., September 28, 1940.

LEARNED HAND,
United States Circuit Court of Appeals Judge.

We hereby consent to the signing and entry of the foregoing Order.

Dated, New York, N. Y., September 27, 1940.

8390

JOHN T. CAHILL,
per D. L. M.
United States Attorney.

8391

8392 **Stipulation and Order as to Record.**

IT IS HEREBY STIPULATED AND AGREED that the foregoing is a true copy of the transcript of the record in the case of United States of America against Local 807 of the International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, William Campbell, Austin Furey, George Bagley, Joseph Bender, Joseph Deegan, Robert Dillon, Frank Downs, John Gaughan, John Horan, Andy Jakakas, Abraham Klenofsky, Leonard La Marne, Manuel Magan, James Murphy, George Needelmann, Bernard L. Randazzo, Samuel Reichler, Morris Reichler, Thomas Sharkey, William Simpson, Anthony Venditti, Peter Waskiewicz, Edward F. Weinheimer, John J. Weinheimer, Harry Zollinger, and Michael Cahill, as agreed upon by the parties.

8393

Dated: New York, N. Y., November 15, 1940.

JOHN T. CAHILL,
United States Attorney for the Southern District of New York.

EDWARD C. MAGUIRE AND
LOUIS B. BOUDIN,
Attorneys for Defendant Local 807.

LOUIS B. BOUDIN,
Attorney for Defendant Michael Cahill.

8394

JAMES D. C. MURRAY,
Attorney for the individual Defendants other than Michael Cahill.

Order as to Record. 8395

Upon the above stipulation, it is

ORDERED that the foregoing printed record be filed in lieu of the original papers for the purpose of certifying the record on appeal.

Dated: New York, N. Y., November 15, 1940.

MURRAY HULBERT,
U. S. D. J.

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8398 **Clerk's Certificate.**

UNITED STATES DISTRICT COURT,

SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

against

LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN & HELPERS OF AMERICA, et al.,
Defendants.

8399

UNITED STATES OF AMERICA,
SOUTHERN DISTRICT OF NEW YORK, } ss.:

I, GEORGE J. H. FOLLMER, Clerk of the District Court of the United States of America for the Southern District of New York, DO HEREBY CERTIFY that the foregoing is a correct transcript of the record of the said District Court in the above-entitled matter as agreed upon by the parties.

IN TESTIMONY WHEREOF, I have caused the seal of the said Court to be hereunto affixed, at the City of New York, in the Southern District of New York, this 15th day of November, in the year of our Lord one thousand nine hun-
8400 dred and forty, and of the independence of the said United States the one hundred and sixty-fifth.

GEORGE J. H. FOLLMER,
Clerk.

(Seal)

In the United States Circuit Court of Appeals for the Second Circuit

No. 170—October Term, 1940

Argued February 6, 1941—Decided April 4, 1941

UNITED STATES, APPELLEE

v.

LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN AND HELPERS OF AMERICA, ET AL., APPELLANTS

Appeal from judgments of conviction upon two indictments; one, for a conspiracy to violate the Sherman Act, and the other (in four counts) for a conspiracy to violate the Act of June 18, 1934, commonly known as the Anti-Racketeering Act."

Before L. HAND, AUGUSTUS N. HAND, and CLARK, Circuit Judges.

Edward C. Maguire and Louis B. Boudin for Local 807, etc., and Cahill, appellants; James D. C. Murray for other appellants.

Edward J. Ennis and David L. Marks for the appellee.

L. HAND, C. J.: These appeals are from convictions under two separate indictments (consolidated for trial); the first, for a conspiracy to violate the Sherman Act; the second, for a conspiracy to violate the "Anti-Racketeering Act." The evidence was such that the jury might have found the following facts. The individuals accused were truck drivers in the City of New York, and members of the defendant union, Local 807 of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America. Campbell and Furey were delegates of this union; the others held no office. Large quantities of merchandise enter the City of New York from other states in motortrucks owned and operated by individuals and corporations engaged in the trucking business, who employ their own truck drivers to bring the trucks into the City—generally to warehouses on the west side—and to unload them. The accused objected to this and insisted that they should either drive and unload, or should at least unload, all trucks entering the City from outside the territorial jurisdiction of the union. For this service they demanded $9.42 for each large truck, and $8.41 for each small one, these being union wages for a full day's work. The operators resisted these demands, but the accused forced their claims upon them in some instances by actual violence to their drivers and trucks; in some by threats of such violence; in others by persuading receiv-

ing clerks not to receive the loads. At times the operators refused to allow the accused to have any part in the handling of their loads; more often they let them do some of the unloading; but in almost all cases they were forced to pay the full day's wage. After this had gone on for some time, a number of the operators were forced to sign agreements with the union, by which its members were to take over their trucks as soon as they entered the City, to drive them to their destination, and there to unload them. All the accused were bona fide truck drivers, and, with possible exceptions to be noted later, would have accepted the job of driving and unloading the trucks, had the operators consented. Their conduct was concerted; and it was for the most part either directed or countenanced by the delegates, Campbell and Furey, who did not themselves ride or unload the trucks.

The judge charged the jury that if they believed the accused to have committed these acts, it was a violation of both the Sherman Act and the "Anti-Racketeering" Act. As to the second indictment, although he told them that they must find that the money demanded and received was not "the payment of wages by a bona fide employer to a bona fide employee," and that the accused were not guilty "if the money which they * * * obtained * * * through the use of force and violence or threats * * * was paid as wages, and if the defendants who received the money were bona fide employees, and the truck operators who paid the money were bona fide employers," he nevertheless added that the sums paid could not be regarded as wages if they "were not wages so paid in return for services performed * * * but were payments made * * * to induce the defendants to refrain from interfering unlawfully with the operation of their trucks." Later he said: "if * * * what the operator was paying for was not labor performed but merely for protection from interference by the defendants with the operation of the operator's trucks, the fact that a defendant may have done some work on an operator's truck is not conclusive." Moreover, he refused requests which in substance would have told the jury that the extortion of money by threats of violence was not within the act, although no services were rendered, unless it was the object of the conspiracy to extort the money without rendering any service; that is, that if the accused stood ready to do the work it was not a crime to take the pay.

The convictions under the Sherman Act cannot stand after the decision of the Supreme Court in Apex Hosiery Co. v. Leader, 310 U. S. 469. We have very recently considered the application of the doctrines there laid down in United States v. Gold, 115 Fed. (2) 236, and what we there said will serve here as well;

for there was no evidence of any concerted agreement to fix the price of trucking or of the commodities carried; nor was there any evidence that the action of the accused had in fact affected those prices. The first count of the "Anti-Racketeering" indictment was drawn under subdivision (a) of §420a of Title 18, U. S. C.; it alleged that the accused had conspired to obtain money by violence and threats of violence directed against the drivers and trucks of the operators. The theory of the prosecution was that the unaccepted proffer of services by the accused, even though they made them in good faith, did not convert the payments into "the payment of wages by a bona fide employer to a bona fide employee"—the exception in subdivision (a). The second count was for a conspiracy under subdivision (b) of §420a, and added nothing of substance to the first, unless we are to construe the subdivision as eliminating the exception which we have just quoted. The whole statute is very loosely drawn, and we are not sure what subdivision (b) does add to subdivision (a), beyond making it an offense to extort "property * * * under color of official right." "Property" in subdivision (b) presumably includes "money" in subdivision (a), and the phrase "consent, induced by wrongful use of force or fear" in subdivision (b) must include a "threat to use force" in subdivision (a); if so the two subdivisions to some extent appear to overlap. However that may be, we cannot suppose that the exaction of wages by a "bona fide employee" is forbidden by subdivision (b) after being expressly excepted from subdivision (a). We can attach no meaning to the third and fourth counts.

The case therefore turns upon the meaning of subdivision (a); and that is plain enough save for the exception. We believe that the exception covers labor disputes, and indeed was primarily directed to them; for to exclude them would make it very nearly brutum fulmen. Theoretically, it might indeed apply only to situations in which an employee procured by threats the payment of wages due under a contract which the employer had made without coercion; but there are two objections to so circumscribing it; first, the language is general and suggests no such distinction, and, second, such occasions would be extremely rare. As to the first, if any employer is coerced into making a contract, the coercion ordinarily persists until the wages fall due, so that it is proper to speak of them as being "obtained" by the original threats, or violence; and if the coercion does not persist, and the employer has become complaisant, there should be no crime anyway. As to the second objection, it would be an extremely rare occasion when coercion would be applied merely to collecting the wage upon a contract freely made. Practically always the crux

of a labor dispute is who shall get the job, and what the terms shall be; and such pressure—lawful or unlawful—as is put upon the employer is at the time the contract is made. After that it is seldom necessary to renew the pressure; its effect usually continues, as we have just said. To confine the exception to cases where the original contract was voluntary would therefore leave out the great mass of instances in which the issue would ever arise. The adjective "bona fide," qualifying both employer and employee, was not, in our judgment, added to cut out coerced contracts. Although the promisor may avoid such a contract, it is a contract until he does; and even after he has, he must restore any benefit he has received from the promisee's performance. Restatement of Contracts §§480, 499. Congress can hardly have had any such niceties in mind as the difference between the agreed wage and the benefit to an employer of the services rendered in case he avoided a contract for duress. The words had quite another meaning in our opinion; they were designed to limit the exception to cases in which the employee really did the work for which he was paid, however he might secure the job; and to exclude cases where he disguised the levy of blackmail by a pretext of service never in fact rendered. For the foregoing reasons we do not believe that the act made it a crime for a labor union to get jobs or an increase in wages for its members, even by threats or violence. We do not indeed mean that such methods should be condoned, but the purpose for which they are used may indeed determine their criminality.

The judge seems to have agreed with this interpretation, for he limited the guilt of the accused to those instances in which they collected payments, either without doing any work at all, or without doing all of the work paid for. His notion was that payments made for services which the operators refused could not properly be called "wages," to the payment of which alone the exception gives immunity. That is also the prosecution's position, as we understand it. The question is whether the act applies in case the employee is ready and able to do the work, and demands the job, but the employer, although coerced into paying the wage, prefers to employ a substitute to do the work. Perhaps we should not call such payments "wages," though that is not entirely clear. For example, an impresario or a theatrical producer, finding that the singer or actor whom he has engaged has ceased to draw audiences, may engage a more popular performer; it is at least debatable whether the payments that he must continue to make do not remain "salary" or "wages." However, that is a verbal question which we need not answer, because, even if it would too far distort the word to speak of such payments as "wages," it is

incredible that, when Congress gave immunity to employees who succeeded in coërcing their employer into giving them the job, it should have made it criminal to take the pay when he refused to let them work. The wrong is the extortion of money without quid pro quo, and a bona fide tender is the only step that the putative employee can ever take towards performance. Guilt is personal to the wrong-doer; it would be absurd to make it depend upon the fact that the employee had not gratuitously persisted in pressing his unwelcome services upon the employer. That would excuse the more heinous offence, and penalize the more venial. Hence we hold that, if the employee in good faith actually proffers his services, it is the same whether or not they are accepted. In the case at bar the accused were, for the most part, willing to do the work; indeed, the fact that, especially after some of the operators finally yielded and signed contracts, members of the union served as drivers shows that at least the primary motive was to get the jobs. The position of the accused, when the operators refused to employ them, was like that of "stand-by" orchestras, so-called. If a conductor brings an orchestra from outside into the territory of a union powerful enough to coërce him, he must either employ local musicians in their place, or pay an amount equal to their aggregate wages if they had played. In such cases it may be doubtful whether the local players can in fact substitute for the outsiders, and that might condemn them; but there was no such doubt here, for the accused were competent drivers. On the other hand, as to some of them there was a question whether they were in fact willing to serve; there was testimony indicating not only that at least they did not expect employment—which perhaps was not unnatural after two or three refusals—but more than that, that they would not have accepted it, and did not when it was offered. We shall assume arguendo that, had the issue been properly presented to the jury, there was evidence to sustain a verdict against these men.

That assumption will not change the result because the issue was not properly presented. It will be seen from the language which we have quoted from the charge that, although the judge several times told the jury that payments of wages were immune however procured, he added that "wages" did not include sums which were not paid for "services performed * * * but * * * in order to induce the defendants to refrain from interfering * * * with the operation of their" (the operators') "trucks." In that event they were not to "be regarded as wages." It was consistent with this language that, although the operators paid the daily wage to protect their trucks from violence, the accused would have driven and unloaded them, if they

had been allowed to do so. The jury were in substance told that the only payments which were immune were wages paid for work actually done. That this was the judge's understanding is confirmed by his refusal to charge several of the requests, especially the 58th, the critical part of which was as follows: "the proof must show not only that individual defendants obtained money without rendering adequate service, but that it was the aim and object of the conspiracy that all of the conspirators should obtain money without rendering adequate service therefor." A verdict should not stand when the jury has been so far misdirected upon the very kernel of the case; it is not only possible, but likely, that here they supposed many—perhaps all—of the accused were ready, as they certainly were able, to drive and unload the trucks. If they attended at all to what the judge told them, they must have thought this immaterial, and there was really nothing left for them to decide if they concluded that the payments had been extorted by threats.

In conclusion we may add that a consideration of the evil at which Congress was aiming seems to us to confirm the construction we are putting upon what it said. For a number of years before 1934—at least in the City of New York—the levy of blackmail upon industry, especially upon relatively small shops, had become very serious, and the local authorities either would not, or could not, check it. The courts were powerless, because the witnesses were terrorized and could not be protected if they told what they knew; the public felt themselves at the mercy of organized gangs of bandits and became much wrought up over the situation. It was, at least primarily, to check such Camorras that Congress passed this measure. Some of these offenders had been members of labor unions, real or pretended, and at times it may be that they covered their practices by the pretence that the tribute collected was pay for services rendered. We have already said that in our judgment it was to meet such excuses that the words "bona fide" were introduced. Congress might indeed have gone further than it did; it might have included payments extorted by threats for services rendered or offered; that, too, is a grave evil. But, grave as it is, it is of a different kind from that at which this act was aimed. The history of labor disputes is studded with violence which unhappily is not yet obsolete; but, although the means employed may be the same as those here condemned, the end is always different, for it is to secure work on better terms. That purpose may indeed lead far afield, even to the domination of a whole industry, but the stake is always the same; and it is toto coelo a different thing to seek to secure work or higher wages, from extorting money without proposing to

give anything in return. Nor is that difference obliterated even though it was unreasonable to exact a full day's wage for services which would have taken much less than a day to perform. It is not unreasonable to ascribe to Congress the purpose of observing this distinction and of leaving to the states the maintenance of order in cases of disorders in labor disputes. True, it may be asked why Congress should not also have left to the states the suppression of such disorders as the act indubitably does forbid. That we cannot answer, and indeed it would not be proper for us to import the distinction which we have, if the language used did not demand it. We have tried to show how it was the inevitable consequence of what was said; and it fortifies our conclusion that there was a possible purpose for the distinction. Furthermore, the proviso to §420 (d), although that, too, is most obscure, at least shows a vague intention to discriminate between violence in labor disputes and elsewhere.

Judgments reversed.

CLARK, Circuit Judge (concurring).

I agree with the opinion and the judgment of reversal; but I think two further points should be noticed against the event of further proceedings or a new trial below. First, I do not see how a conviction can be had against the unincorporated Local 807 under the Anti-Racketeering Act; in other words, "person" in the Act does not include such an amorphous group as this association of around 10,000 persons. It is hornbook law that, absent a clear legislative intent and unincorporated association does not commit crimes, 7 C. J. S. 43; and Congress has often shown that it knows how to include an association as a person when it so desires, as in the Sherman and Clayton Acts, 15 U. S. C. A. §§ 7, 12, and literally a host of others,[1] but not in the general construction law, 1 U. S. C. A. § 1. Even with the express provision of the Sherman Act, convictions of unincorporated bodies for its violation are rare, and seem to rest so far only on dicta of the Supreme Court. Brown v. United States, 276 U. S. 134, 48 S. Ct. 288, 72 L. Ed. 500; and compare United States v. International Fur Workers Union, 2 Cir., 100 F. 2d 541, 547, certiorari denied 306 U. S. 653, 59 S. Ct. 642, 83 L. Ed. 1051; Moffat Tunnel League v. United States, 289 U. S. 113, 118, 53 S. Ct. 543, 77 L. Ed. 1069. Hence the omission here is significant and is rendered more so by the language of § 6, 18 U. S. C. A. § 420d, implying personal, rather than vicarious, participation in the offense interdicted, and

[1] 2 U. S. C. A. § 241 (f); 7 ibid. §§ 2, 72, 92 (k), 116 (f) (1), 123, 151, 182, 499a (1), 504, 589 (1), 1561 (a) (2); 13 ibid. §§ 12, 71, 142, 364, 431 (e); 18 ibid. § 403; 19 ibid. §§ 172, 1341 (c), 1401 (d); 21 ibid. §§ 171 (d) 321 (e); 26 ibid. § 1391 (a); 28 ibid. § 390a; 29 ibid. §§ 53, 113 (c), 203 (a); 38 ibid. § 592 (e); 43 ibid. § 1171; 46 ibid. §§ 316 (b), 801; 47 ibid. § 30; 48 ibid. §§ 471a (1), 663 (4); 49 ibid. § 401 (27); 50 ibid. § 82 (a), with which compare 7 U. S. C. A. §§ 62, 242, and 26 ibid. §§ 145 (c), 494 42) (D), 1696 (1).

carefully excepting, not labor organizations themselves, but the impairing or diminishing of labor organization rights.[2]

Second, if, as the opinion suggests, convictions of certain of the defendants under an adequate charge can be sustained under § 420 (a), then the effect of the proviso to § 420d, just cited and quoted in the note, must be considered. I agree that it is "most obscure," and also that it "at least shows a vague intention to discriminate between violence in labor disputes and elsewhere." It may therefore mean in effect that the acts of violence here made a federal crime do not include such acts when occurring in otherwise legitimate activities of bona fide (i.e., nonoutlaw) labor organizations. If the word "otherwise" should be omitted from this statement, if the acts of violence themselves render the union activities not legitimate, then the proviso becomes wholly meaningless, since it would then say that union activities are excepted only when they do not violate the Act. Yet it was clear legislative history that this and the exceptions of §§ 420a (a) and 420b (b) discussed in the opinion were drafted by or for the great labor organizations, and the original bill was held up in both House and Senate until these provisions satisfactory to labor interests could be prepared and added. 78 Cong. Rec. 5859, 10867, 11402–3, 11482; H. R. 1833, 73d Cong., 2d Sess., 1934. This is not to legitimatize violence; for the legislative issue was whether the federal criminal jurisdiction should be greatly expanded—in ways unknown to the founding fathers or their descendants prior to 1934—because state processes were ineffective or had broken down. To meet what was thought to be an emergency, there were passed the series of about a dozen acts, among which were this act and the amended kidnapping, the fugitive felon, and the stolen property acts.[3] The proviso therefore may simply mean in effect that the emergency did not extend to even violent acts in furthering legitimate union activities; control or punishment of them should still remain with the states, as under N. Y. Penal Law, Consol. Laws, c. 40, §§ 850–2. Perhaps final interpretation should not now be attempted, but as at present advised I think conviction cannot be had where the acts or threats complained of are part of an endeavor of members of bona fide

[2] 18 U. S. C. A. § 420d: "Any person charged with violating section 420a of this title may be prosecuted in any district in which any part of the offense has been committed by him or by his actual associates participating with him in the offense or by his fellow conspirators: Provided, That no court of the United States shall construe or apply any of the provisions of sections 420a to 420e of this title in such manner as to impair, diminish, or in any manner affect the rights of bona fide labor organizations in lawfully carrying out the legitimate objects thereof, as such rights are expressed in existing statutes of the United States. (June 18, 1934, c. 569, § 6, 48 Stat. 980.)"

[3] Cf. Cummings, Immediate Problems for the Bar, 20 A. B. A. J. 212; Chamberlain, Federal Criminal Statutes, 1934, 20 A. B. A. J. 501; 48 Harv. L. Rev. 489; 1 Law & Contemp. Prob. 399, 445; 21 Va. L. Rev. 568.

labor organizations to carry out their otherwise legitimate objects.

AUGUSTUS N. HAND, Circuit Judge (dissenting in part):

I agree that the convictions for violation of the Sherman Act should be reversed for the reasons stated in the majority opinion. The convictions under the Anti-Racketeering Act should, I think be affirmed except perhaps in some instances where the evidence may have been of insufficient weight. The majority opinion, however, proceeds on the theory that the instructions of the trial judge were so insufficient or misleading as to call for reversal. With this I do not agree.

Under the Anti-Racketeering Act the defendants were indicted for conspiring to violate Section 420a, subdivisions (a), (b), and (c) of Title 18 U. S. C., which subject to punishment:

"Any person who, in connection with or in relation to any act in any way or in any degree affecting trade or commerce or any article or commodity moving or about to move in trade or commerce—

"(a) Obtains or attempts to obtain, by the use of or attempt to use or threat to use force, violence, or coercion, the payment of money or other valuable considerations, or the purchase or rental of property or protective services, not including, however, the payment of wages by a bona-fide employer to a bona-fide employee; or

"(b) Obtains the property of another, with his consent, induced by wrongful use of force or fear, or under color of official right; or

"(c) Commits or threatens to commit an act of physical violence or physical injury to a person or property in furtherance of a plan or purpose to violate subsections (a) or (b) * * *."

I agree that subdivision (a) of Section 420a contains an exemption from liability under the Act which may reasonably, if not necessarily, be regarded as implicit in subdivisions (b) and (c), but I think that the scope of the exemption is not such as to relieve defendants from prosecution who obtained money by threats without earning wages for any real work even though they might have been willing to accept employment if the operators of the trucks had consented to engage them. Though acts of force, violence or coercion accompanying a labor dispute are sometimes condoned because of ultimate social gains, it nevertheless is true that they are plainly serious violations of law and would surely fall within the prohibitions of the Anti-Racketeering Act if the jurisdictional requirements existed and the exemption in subdivision (a) did not apply.

It is argued in the prevailing opinion that the exemption applies if the defendants though extorting money from the op-

erators by coercion tendered their services in good faith. This is said to be so because "a bona fide tender is the only step that the putative employee can ever take toward performance" and because "guilt is personal to the wrongdoer (and) it would be absurd to make it depend upon the fact that the employee had not gratuitously persisted in pressing his unwelcome services upon the employer." My answer is that the employee is ex hypothesi a law breaker who has used violence or coercion to extort money and that money which he has not worked to earn is not wages nor paid as such. Only "payment of wages" is excepted under subdivision (a) from the penalties of the Act. He does not come within the terms of the subdivision. I see no reason for enlarging its terms by implication for his benefit even if some other person, who had gone far enough through the same unlawful means to obtain the status of an employee, would come within the exemption.

It may be added that Congress may have determined to exempt men from prosecution under the Anti-Racketeering Act who actually obtain a status as employees, even though the status is secured by coercion, but not to grant exemption to men who have done nothing but "shake down" prospective employers without rendering any service. The one policy might tend to preserve an employer-employee relation when once established, while the other would involve toleration of intermittent acts of brigandage resulting in no ascertainable advantage.

United States Circuit Court of Appeals for the Second Circuit

Cal. No. 170—October Term 1940

UNITED STATES OF AMERICA, APPELLEE

vs.

LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN & HELPERS OF AMERICA, ET AL., DEFENDANTS-APPELLANTS

GOVERNMENT'S PETITION FOR REHEARING

To the Honorable Judges of the United States Circuit Court of Appeals for the Second Circuit:

The Government does not request a rehearing on the legal question of the validity of the Sherman Act convictions or even on the legal question of the conflicting statutory interpretations of the Anti-Racketeering Act expressed in the three opinions filed herein on April 4, 1941, because these questions were fully

presented in the briefs and oral argument. The Government does urge that, even assuming arguendo the correctness of the prevailing construction of the Anti-Racketeering Act, a rehearing should be granted to consider this Court's view that the jury might have found that the conspiracy in fact included proffers of useful services by the accused which were rejected by the truck owners, and that the jury was not charged to acquit if they took that view of the evidence. In answer to this view the Government wishes to point out (1) that all of the evidence of concerted action of the accused, offered by both the Government and the defendants, proved either an absolute refusal to do any work or the actual performance of some work and did not relate to proffer or rejection; and (2) that even assuming that there was any proffer and rejection, the view of the evidence most favorable to the Government, which must be taken, is that services proffered by defendants were not bona fide useful work but were in fact merely "protection" from their own interference with the truck owners in exchange for tribute.

1. Alleged Proffer and Rejection of Services.—The prevailing opinion states that the evidence was such that the jury might have found that the accused insisted that they should drive and unload, or at least unload, all trucks entering the City and that the truck operators at times refused to allow the accused to have any part in handling their loads and some operators let them do some of the unloading. This opinion further states that the "question is whether the act (the Anti-Racketeering Act) applies in case the employee is ready and able to do the work and demands the job, but the employer, although coerced into paying the wage, prefers to employ a substitute to do the work". This opinion further states that the "wrong is the extortion of money without quid pro quo, and a bona fide tender is the only step that a putative employee can ever take towards performance".

The Government submits that all the evidence of combined action of the defendants proved on the one hand actual refusals to work for the payments obtained or, on the other hand, actual performance of some work for the payments. The conspiracy was to exact payments by violence regardless of work. Demands for payments combined with express refusal to work were clearly proved (R. 535, 589–593, 923, 1153–1157, 1403–1405, 1460–1461, 1643–1644; Gov. Brief 16–18). There was no evidence of concerted conduct whereby the defendants proffered services which were rejected by the truck operators. Such proffers and rejections were not in the case. Whenever the defendants did not refuse to do any work the truck owners, who were forced to pay anyhow, certainly did not reject any work they could get from

defendants. On the contrary the evidence clearly is that the truck owners sought to get the defendants to work for the payments which the owners were forced to make (R. 531, 1123–1124, 1291–1292, 1485, 1586, 1639, 1662, 1721) except, of course, that the owners were not eager to accept negligent driving for which they might be liable (R. 595, 669). Certainly it is unlikely that the owners, who made these persistent efforts to get some work for the payments exacted from them, viewed their conduct as rejection of proffered services.

Since the conspiracy did not involve the proffer of services which was rejected, there was no need to charge the jury on this point. The charge was not only adequate but also complete on the issues which were presented by the evidence, even accepting the prevailing construction of the statute.

Moreover, the trial judge did charge the jury to consider, upon the question of wages, "the willingness or the unwillingness of the defendant in each instance to do the work for which he claims to have been hired" (R. 2451). The prevailing opinion states that the "jury were in substance told that the only payments which were immune were wages paid for work actually done" but, as is apparent from the part of the charge just quoted, the jury were also instructed that willingness or unwillingness to work should be considered on the question of wages.

2. Nature of Alleged Services.—But even if the Government's view of the evidence is incorrect, and if the evidence was sufficient to support a finding by the jury of a proffer of services which was rejected, and even if the instruction to the jury was not sufficient on such a view of the evidence, nevertheless a rehearing should be granted and the convictions should be affirmed on the alternative, independent ground that the jury must have found that the services proffered were not work, but merely "protection" by the defendants from their own violence.

A view of the evidence favorable to the Government must be taken on this aspect of the appeal, which does not involve the adequacy of the charge. To convict on the evidence under the charge the jury at least might have found, and probably must have found, that any proffer of alleged services was what the prevailing opinion calls a "pretence that the tribute collected was paid for services rendered." The evidence clearly supports such a finding (R. 594, 1379, 1460–1461, 1467–1470, 1483–1484, 1575, 1997, 2137, 2546–2547). Thus the prevailing opinion appears to take a different view of the facts from the jury's; and it is suggested that the opinion should be clarified either by accepting the view of the facts that the jury must have adopted and affirming the convictions, or by expressly holding that the evidence

is insufficient to support the verdict because it supports only the Court's view that the services proffered were the actual work of truck drivers and not mere protection.

For the above reasons the Government prays that this petition be granted.

Dated April 19, 1941.

Respectfully submitted,

MATHIAS F. CORREA,
United States Attorney for the Southern District of New York, Attorney for the United States, Appellee.

EDWARD J. ENNIS,
DAVID L. MARKS,
JOHN L. BURLING,
Assistant United States Attorneys,
Of Counsel.

The foregoing petition is believed to be well founded in point of law, is presented in good faith, and has not been filed for purposes of delay.

EDWARD J. ENNIS.

Per Curiam:

Petition for rehearing denied April 24, 1941

[Order. United States Circuit Court of Appeals, Second Circuit. Filed Apr. 24, 1941. D. E. Roberts, Clerk.]

United States Circuit Court of Appeals, Second Circuit

At a Stated Term of the United States Circuit Court of Appeals, in and for the Second Circuit, held at the United States Courthouse in the City of New York, on the 1st day of May, one thousand nine hundred and forty-one.

Present: Hon LEARNED HAND, Hon. AUGUSTUS N. HAND, Hon. CHARLES E. CLARK, Circuit Judges.

UNITED STATES, PLAINTIFF-APPELLEE

v.

LOCAL 807 OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN AND HELPERS OF AMERICA, ET AL., DEFENDANTS-APPELLANTS

Appeal from the District Court of the United States for the Southern District of New York.

This cause came on to be heard on the transcript of record from the District Court of the United States for the Southern District of New York, and was argued by counsel.

On consideration whereof, it is now hereby ordered, adjudged, and decreed that the judgments of said District Court be and hereby are reversed.

It is further ordered that a Mandate issue to the said District Court in accordance with this decree.

D. E. ROBERTS, *Clerk.*

[Order of Mandate. United States Circuit Court of Appeals, Second Circuit. Filed May 1, 1941. D. E. Roberts, Clerk.]

United States of America, Southern District of New York

I, D. E. Roberts, Clerk of the United States Circuit Court of Appeals for the Second Circuit, do hereby certify that the foregoing pages, numbered from 1 to 2826 inclusive, in 5 volumes, contain a true and complete transcript of the record and proceedings had in said Court, in the case of United States, Plaintiff-Appellee, against Local 807 of International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, et al., Defendants-Appellants, as the same remain of record and on file in my office.

In testimony whereof, I have caused the seal of the said Court to be hereunto affixed, at the City of New York, in the Southern District of New York, in the Second Circuit, this sixteenth day of May, in the year of our Lord one thousand nine hundred and forty-one, and of the Independence of the said United States the one hundred and sixty-fifth.

D. E. ROBERTS, *Clerk.*

U. S. GOVERNMENT PRINTING OFFICE 1941

Supreme Court of the United States

No. 131. October Term, 1941

Order allowing certiorari

Filed October 13, 1941

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Jackson took no part in the consideration and decision of this application.

Supreme Court of the United States

No. 132. October Term, 1941

Order allowing certiorari

Filed October 13, 1941

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Jackson took no part in the consideration and decision of this application.

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U. S. GOVERNMENT PRINTING OFFICE : 1941